

Division 10: Office of the Information Commissioner, \$2 538 000 —

Mr S.J. Price, Chair.

Mr J.R. Quigley, Attorney General.

Ms C. Fletcher, Acting Information Commissioner.

Ms M. Fitzgerald, Executive Officer.

Mr J. Lee, Principal Policy Adviser.

Miss L.A. Markussen, Ministerial Liaison Officer.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The Attorney General may agree to provide supplementary information to the committee rather than asking that the question be put on notice for the next sitting week. I ask the Attorney General to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the Attorney General's cooperation in ensuring that it is delivered to the principal clerk by Friday, 31 May 2019. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the member for Dawesville.

Mr Z.R.F. KIRKUP: I refer to page 123, "Resolution of Complaints", and note that in 2017–18, 2018–19 and onwards, there is an increase of one full-time equivalent. Is the increase of one FTE to deal with a larger number of complaints that have been processed and reviewed?

Mr J.R. QUIGLEY: Sorry, can I just have that again?

Mr Z.R.F. KIRKUP: Under the heading "Resolution of Complaints", the table lists the number of FTEs in 2017–18 as eight and in this budget the number of FTEs is now nine. Is the increase in FTE due to the volume of complaints that the commission has to deal with?

Mr J.R. QUIGLEY: I am advised that the extra person is an administration officer, not a complaints officer.

Mr Z.R.F. KIRKUP: Was there no administration officer beforehand?

Mr J.R. QUIGLEY: I will throw that to the commissioner to answer.

Ms C. Fletcher: I thank the member for the question. An administration officer left with a voluntary severance, but, in the last period, since my arrival in July last year, there has been the recruitment of an administrative assistant to assist the executive officer. No additional complaints staff have been hired during the period, but there has been the recruitment of acting staff into permanent roles.

Mr Z.R.F. KIRKUP: How many FTEs are directly dedicated to the resolution of complaints? I appreciate that there is an executive officer and an administration assistant. Does that mean that seven people are specifically dedicated to the resolution of complaints as their primary function?

Ms C. Fletcher: Member, nine people are not directly involved in the resolution of complaints, or external reviews as we call them. The nine FTEs consist of officers who are directly involved as what we term complaints officers, plus the administrative support staff who assist them, so nine FTEs assist with that function.

Mr Z.R.F. KIRKUP: What ratio does the commission use to assign FTEs dedicated to the external review process? Is a case load required as part of a job definition format—"You'll be dealing with 400 a year"—or something like that? Is there a specific figure or target? I assume that there has been a reduction in external review requests between this and the last financial year. What is the case load for those FTEs? Are they meeting their targets? Is there a backlog? Are staff overloaded? Has the commission sought extra funding but not been given that funding?

Ms C. Fletcher: There is no target per officer per se. What comes into the office is very variable. In 2017–18, 165 matters came in for external review—it goes up and down—which represents an almost 30 per cent increase from the previous 2016–17 period. It is very hard, because we are not in control of the number of matters that come to the agency. Presently a backlog of 35 to 40 matters have not been allocated. We are focusing targeted

effort to deal with those matters in a particular type of way. In terms of the case load per complaints officer, we allocate according to a degree of complexity and experience. Most of our complaints officers have significant experience. Some of them have been with the agency since the agency began in 1993, so there are no particular targets per complaints officer. At the moment we are coping as best we can with the resources. In fact, in the last financial period we increased our productivity significantly, and over the last five years by about 30 per cent compared with the five years before in terms of output of dealing with matters.

[2.40 pm]

Mr P.A. KATSAMBANIS: Does the office keep figures on the average number of days or weeks, or however it is measured, that it takes for a complaint to be allocated? The commissioner indicated there was a backlog of 40 or so at the moment. Additionally, is there a target of what should be the average number of days before a matter is allocated?

Mr J.R. QUIGLEY: I will ask the acting commissioner to answer that question.

Ms C. Fletcher: There is no specific target per se in terms of time for which a matter should be allocated. We try to get to matters as quickly as we can. We have a system in which effectively we triage, if you will, matters right at the outset when they come in. Virtually the day they arrive in the office they are given a preliminary assessment as to urgency and whether any time periods need to be complied with. There is an assessment right at the outset. In terms of a time target for allocating it, we do not have a particular target per se for that. However, we are very mindful, and month to month we review how long it takes us to allocate matters. We keep figures on whether we had a certain number of matters, how many we would have under the six-month category, how many we have under the three-month category, and, beyond that, the matters that are getting older—nine months and 12 months. We are very conscious to not let matters get old. We have worked hard in recent years to bring down the number of matters that have got into that over 12-month bracket. Currently we might have two matters that sit in that over 12-month bracket, but we have brought that number down. I have some figures here: in terms of complaints finalised just over the past five years, beginning with 2013–14, it was 36.7 weeks to complete or finalise a complaint. The average time to finalise a complaint is now down to 29.9 weeks. It is a downward trend. There are a couple of blips here and there, but it is down from what it was five years ago.

Mr P.A. KATSAMBANIS: Further to that answer, that leads on to my next question.

The CHAIR: Is it a further question?

Mr P.A. KATSAMBANIS: It builds directly on the last part of the answer, so the Chair can take it either way; I am not that fussed. Page 123 of budget paper No 2 under “Services and Key Efficiency Indicators” contains efficiency indicators around cost. However, I note that there is no efficiency indicator around the time taken to assess matters. I compare and contrast that with, say, the Corruption and Crime Commission that we will talk to soon, which does set those efficiency indicators. Given that the commission keeps those figures and that they show a downward trend, is any consideration given to including those as reported efficiency indicators?

Ms C. Fletcher: That certainly has been discussed within our office, with myself and other information commissioners, for a long period. The member might be aware that the act indicates time periods for certain phases of the freedom of information process. For the external review process, which is that phase of the process that comes before the Information Commissioner, it is 30 days. The member is correct to say that there are no KPIs or indicators in relation to keeping that. Having been in the office for the last 12 months and being mindful that this is an important outcome, for both the public and other applicants, my mind has gone many times to the fact that it is not part of our KPIs. However, from reviewing evidence that has been given particularly to this committee over the years—that issue has come up in the past—I would concur with what some of my predecessors have said, in that that 30-day target is virtually always honoured in the breach.

Mr P.A. KATSAMBANIS: Can you repeat that last comment?

Ms C. Fletcher: The 30-day limit for the completion of an external review has never been able to be met. It was an unrealistic target from the very outset. I am sure the member would have some appreciation that the process involves the matter coming in, disputed documents being obtained from the relevant agency, submissions, natural justice process being given to the parties, issues firstly being identified, requests for parties to participate in the process by way of submissions to the Information Commissioner, a fact finding exercise by the commission, and then a written decision by the commissioner. It has always been considered unrealistic that an external review could be provided within a 30-day period. I understand that the Attorney General has expressed a similar view on another occasion. Whether he concurs with me again on this occasion —

Mr J.R. QUIGLEY: I do.

Ms C. Fletcher: He does. From my interactions with the Information Commissioner’s counterparts in other jurisdictions, this is a feature of just about every jurisdiction. It is very difficult to complete an external review

within a 30-day or 45-day period. That is something that I think we are all up against. Based on that current statutory time limit, we would be loath to use that as our benchmark. There is room for discussion about some timeliness KPI, but that would need to be the subject of significant discussion.

Mr Z.R.F. KIRKUP: The acting commissioner mentioned a backlog of, I think, 35 to 40 matters. Is it possible by way of supplementary information to get an understanding of the backlog; namely, the applicant, the agency subject to the external review, and the subject, and as of today's date how long it has been sitting with the Information Commission?

Mr J.R. QUIGLEY: I have a problem with that: I do not want to disclose confidential information of the applicants. The member might be a regular one himself.

Mr Z.R.F. KIRKUP: I appreciate that. Can I have then the subject of the application, the agency and the time outstanding?

Mr J.R. QUIGLEY: I would limit the answer to this—I can provide this as supplementary information and be clear: in relation to the outstanding matters, we are prepared to provide information about which agency the review was sought from.

Mr Z.R.F. KIRKUP: Absolutely, I appreciate that.

[2.50 pm]

Mr J.R. QUIGLEY: Once we start going into subject matter, we are starting to release confidential information.

I thought my answer was clear, but the acting Information Commissioner is concerned—that is, agency or department, yes. We can say how many are outstanding in relation to the Western Australia Police Force but not in relation to a specific branch within the WA Police Force. It is the same with the Department of Health.

Mr Z.R.F. KIRKUP: I appreciate that, Attorney General. For the purposes of the supplementary information request, I will use the Department of the Premier and Cabinet as an example because we are both familiar with it. Can we have a list of the agency—DPC—and the time that it has been outstanding with the Office of the Information Commissioner as of today's date?

Mr J.R. QUIGLEY: We can do that. We have a spreadsheet that sets out the departments, ministers, universities and local governments.

Mr Z.R.F. KIRKUP: In particular, the outstanding ministers would be fantastic. I appreciate that, Attorney General.

Mr J.R. QUIGLEY: The supplementary information we will give is matters outstanding per department.

Mr Z.R.F. KIRKUP: Or that spreadsheet?

Mr J.R. QUIGLEY: The supplementary information we will give is the external review participants 2018–19 external review spreadsheet.

Mr Z.R.F. KIRKUP: Does that spreadsheet indicate those that are overdue?

Mr J.R. QUIGLEY: These are completed matters.

Mr Z.R.F. KIRKUP: The premise of the question was those that are in the backlog. We can pursue that through a question on notice.

The appropriation was recommended.