

OAIC



Australian Government
Office of the Australian Information Commissioner

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Exemptions and conditional exemptions under the Freedom of Information Act 1982

Date: 1 September 2011

The exemptions and conditional exemptions under the Freedom of Information Act 1982 (FOI Act) ensure that sensitive information is properly protected. A person has a legally enforceable right of access to a document of an agency or an official document of a minister unless the document is exempt or conditionally exempt. You should refer to the FOI Guidelines Parts 5 (Exemptions) and 6 (Conditional exemptions) for full details.

Exemptions

- s 33** Exempts documents if their disclosure would, or could reasonably be expected to, cause damage to Australia's **national security, defence or international relations**, or would divulge information communicated in confidence to the Commonwealth by a foreign government or an international organisation. This includes information communicated pursuant to a treaty or formal instrument on protection of classified information.
-

s 34 Exempts **Cabinet documents**, which are Cabinet submissions, official records of the Cabinet, briefings to a minister on a Cabinet submission, and drafts of Cabinet submissions, official records and Cabinet briefings.

A Cabinet submission must have been created for the dominant purpose of being submitted for Cabinet's consideration and must have actually been submitted or be proposed by a sponsoring minister to be submitted (s 34(1)).

Includes a document that is a copy, part of or an extract from an exempt document (s 34(2)), and a document that contains information which would reveal a Cabinet deliberation or decision (except where the deliberation or decision has been officially disclosed) (s 34(3)).

A document is not exempt merely because it is an attachment to an exempt document (s 34(4)).

A document by which a Cabinet decision is officially published (such as a media release) is not an exempt document (s 34(5)).

Information in a Cabinet document is not exempt matter if the information consists of purely factual information, unless disclosure would reveal a Cabinet deliberation or decision whose existence has not been officially disclosed (s 34(6)).

s 37 Exempts documents if their disclosure would or could reasonably be expected to affect the **enforcement of law and protection of public safety**, including by:

- ***prejudicing the conduct of an investigation of a breach relating to taxation or proper administration of the law***
 - revealing the existence or identity of a confidential informant (see s 37(2A) for confidential sources)
 - endangering any person's life or physical safety
 - prejudicing a fair trial
 - disclosing lawful methods of investigation or prejudicing methods for protecting public safety.
-

s 38 Exempts documents to which **secrecy provisions** apply under a provision of another Act and either:

- ***that provision is specified in Schedule 3 of the FOI Act, or***
- s 38 is expressly applied to the document or information in the document, by that secrecy provision, or by another provision of that or any other enactment (s 38(1)(b)).

There are two limitations to this exemption. An applicant has a right of access to a document that is exempt if the relevant secrecy provision does not prohibit disclosure to that applicant. The exemption does not apply if the applicant requests a document which contains their own personal information, except if disclosure is prohibited under the Migration Act 1958.

s 42 Exempts documents subject to **legal professional privilege** (LPP).

The dominant purpose test and the independent legal adviser and client relationship are determinative when considering LPP. Documents are not exempt if the person entitled to claim LPP waives the claim (s 42(3)(a)). Section 42 does not apply to an agency's operational information (as defined in s 8A).

s 45 Exempts documents containing **material obtained in confidence**, where the person who provided the confidential information would be able to bring an action under the general law for breach of confidence to prevent disclosure, or to seek compensation for loss or damage arising from disclosure.

s 46 Exempts documents if their disclosure would, apart from the FOI Act and any immunity of the Crown, be in **contempt of court or infringe the privileges of the Parliament**.

A contempt of court is an action which interferes with the due administration of justice. The term 'parliamentary privilege' refers to the privileges or immunities of the Houses of the Parliament and the powers of the Houses to protect the integrity of their processes.

s 47 Exempts documents disclosing **trade secrets** or **commercially valuable information** whose value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

See also the business or professional affairs conditional exemption (s 47G).

s 47A Exempts **electoral rolls**, including:

- ***print, microform and digital copies of electoral rolls***
- documents that set out particulars of individual electors that were used to prepare electoral rolls or were derived from electoral roll data.

Conditional exemptions

Application of the public interest test to conditional exemptions

An agency or minister must give access to a conditionally exempt document unless at the time disclosure would, on balance, be contrary to the public interest (s 11A(5)). The FOI Act sets out certain factors that favour access and some that must not be taken into account (s 11B(3) and (4)).

s 47B Conditionally exempts documents if their disclosure would or could reasonably be expected to damage **Commonwealth-State relations** or relations with Norfolk Island or disclose information communicated in confidence by or on behalf of a government or authority of a State to the Commonwealth or the Government of Norfolk Island.

s 47C Conditionally exempts documents if their disclosure would disclose **deliberative processes**.

Deliberative matter includes opinions, advices or recommendations that have been obtained, prepared or recorded, and consultations or deliberation that have taken place, as part of the deliberative processes relating to the functions of an agency, a minister or the Government of the Commonwealth or Norfolk Island. Operational information (as defined in s 8A) and purely factual material are not deliberative matter.

Does not apply to:

- **reports of scientific or technical experts**
- reports of a body or organisation established within an agency
- records of a final decision given in the exercise of a power or of an adjudicative function (s 47C(3)).

s 47D Conditionally exempts documents if their disclosure would have a substantial adverse effect on the **financial or property interests of the Commonwealth or Norfolk Island**.

Relates both to expenditure and revenue-generating activities, including intellectual property and the Crown's interests in natural resources.

s 47E Conditionally exempts documents if their disclosure would reasonably be expected to affect **certain operations of agencies** on one or more of the following grounds:

- ***prejudice to the effectiveness of procedures or methods for the conduct of tests, examinations or audits***
- prejudice to the attainment of the objects of particular tests, examinations or audits
- a substantial adverse effect on the management or assessment of personnel
- a substantial adverse effect on the proper and efficient conduct of operations.

s 47F Conditionally exempts documents if their disclosure would involve the unreasonable disclosure of **personal information** about any person (including a deceased person).

An agency or minister must take into account:

- ***the extent to which the information is well known***
- whether the person to whom the information relates is known to be associated with the matters dealt with in the document
- the availability of the information from publicly accessible sources
- any other relevant matters (s 47F(2)).

Access can be given to a qualified person nominated by the applicant if it would be detrimental to the applicant's health or well-being to be given direct access to the documents. The qualified persons include medical practitioners, psychiatrists, psychologists, counsellors and social workers.

s 47G Conditionally exempts documents if their release would disclose information about a person's **business** or professional affairs, or the business, commercial or financial affairs of an organisation or undertaking, and the disclosure:

- ***would or could reasonably be expected to unreasonably affect those lawful affairs, or***
- could reasonably be expected to prejudice the supply of information to the Commonwealth, Norfolk Island or an agency.

Consider also the trade secrets or commercially valuable information exemption (s 47).

s 47H Conditionally exempts documents containing information about **research** being undertaken by an agency officer if its disclosure would be likely unreasonably to expose the agency or officer to disadvantage.

Only applies to CSIRO and Australian National University (ANU) (see Schedule 4).

s 47J Conditionally exempts documents if their disclosure would reasonably be expected to have a substantial adverse effect on Australia's **economy** (including on a particular sector of the economy or the economy of a particular region), by:

- ***influencing a decision or action, or***
- giving a person or class of persons an undue benefit or detriment in relation to their business by providing premature knowledge of an action or inaction.

Documents include those containing matter relating to currency or exchange rates, interest rates, taxes, financial regulation and foreign investment.



Document Search Minute

Note: Should there be a substantial quantity of documents, please contact the Legal Team to discuss whether it is practical to continue processing.

Part 1 – Search and retrieval

Location	Details of search terms and specific containers used	No. of results	Notes
ShareHub (incl. historic/legacy systems)			
Email inboxes (incl. group and individual)			
Inactive email inboxes held by PM&C ICT (post-May 2019)			
Historical inactive email inboxes held by DEWR ICT (pre May 2019) (Legal Services and Records Management can assist with searches)			
PDMS			
Case Management Systems (e.g. GPS, Fusion, CRM)			
Individual computer drives (e.g. H:/drive and G:/drive)			
Physical files (e.g. stored in filing cabinets, safes, desk drawers, offsite storage facilities)			
USBs, CDs, portable hard drives, and other storage devices			



<i>Teams and GovTeams (instant messaging)</i>			
<i>SMS text (e.g. WhatsApp, Signal, Messenger etc.)</i>			
<i>APS Academy Learning Management System and related databases</i>			
<i>Other (please specify)</i>			

Part 2 – Search results and document details

Potentially relevant search results	Quantities
<i>Number of documents (provided to Legal Team, in scope)</i>	
<i>Number of pages</i>	
<i>Percentage of pages which are sensitive (estimate)</i>	

Part 3 – Further comments

Additional comments:
Potential sensitivities:
Potential third parties to consult:

Part 4 – Time estimates

	Number of Staff Required to Complete Task	Hours Required to Complete Task
<i>Searching for documents</i>		
<i>Examining search results to identify documents in scope of the request</i>		
<i>Collating bundle of documents (converting to PDF etc.)</i>		
<i>Preparing schedule of documents (if applicable)</i>		

Part 5 – Approval

Name (EL2 or above)	
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FOI Request LEX [xx]

Signature	
Date completed	

Annex – Schedule of documents

Document no.	No. of pages	Date	Description	Notes/sensitivities
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

s47F

From: s47F
Sent: Friday, 8 December 2023 9:06 AM
To: FOI
Subject: Acknowledgement Letter [SEC=OFFICIAL]

OFFICIAL

Good morning/afternoon (name)

I am writing to acknowledge receipt of your request under the Freedom of Information Act 1982 for access to documents held by the Australian Public Service Commission (The Commission).

The timeframe for responding to your request is 30 days from the date of receipt. Therefore, the due date for this request is (due date).

This timeframe may be extended in certain circumstances. You will be notified if these circumstances arise and the timeframe is extended.

Kind Regards,



Australian Government
Australian Public Service Commission

Applicants name

By Email: applicant's email

Our Reference: LEX number

Dear applicant,

Freedom of Information request

1. I am writing about your request dated (date request received) for access to documents under the *Freedom of Information Act 1982* (FOI Act) held by the Australian Public Service Commission (Commission).
2. I am an authorised officer under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information (FOI) requests.

Request Consultation Process

3. I am writing to advise that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size and broad scope. This is called a practical refusal reason' under section 24AA of the FOI Act.
4. On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a 'request consultation processes' as set out under section 24AB of the FOI Act.
5. You have **14 days** to respond to this notice in one of the ways set out below.

Why I intend to refuse your request

6. You requested access to documents in the following terms:
 - Applicant's request in Italics
7. Under subsection 24AA(2) of the FOI Act an agency or minister must have regard to

the resources that would have to be used for:

- identifying, locating or collating the documents within the filing system of the agency or the office of the Minister;
 - deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
 - making a copy or an edited copy, of the document; and
 - notifying any interim or final decision on the request.
8. Further to the above, the Commission may have regard to other matters in deciding if a practical refusal reason exists, relevantly:
- the staffing resources available to an agency;
 - the impact that processing a request may have on other work in an agency; and
 - whether an applicant cooperates in framing a request to reduce the processing workload.
9. I have taken into account all of the above matters in forming my preliminary decision to refuse your request. I have not taken into account:
- any reasons that you have given for requesting access; or
 - the Commission's belief as to what your reasons are for requesting access; or
 - any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.
10. My reasons are set out below.

Reasons

11. Firstly, I am of the preliminary view that processing your request would be a substantial diversion of the Commission's resources because:
- collecting and reviewing the volume of material involved would be significant;
 - identifying, locating and or collating documents would particularly be onerous as it is estimated that documents from multiple sources will be found that may be captured by the form the request takes; and
 - the contents of the documents will require diligent examination and likely involve significant redactions.
12. Secondly, I am also of the preliminary view that processing your request would be an unreasonable diversion of the Commission's resources because:
- the Commission is a portfolio agency, with limited staffing resources available;
 - the Commission does not have, nor has ever previously required, any permanent dedicated FOI staffing resources as it has historically received a low number of FOI requests that are capable of being managed within the existing resources;
 - the Commission has limited capacity to obtain temporary resourcing in

- considering the impact of processing your request; and
- the Commission is currently working on a number of priority matters related to the Government’s public service reform agenda including in relation to in relation to the working conditions of non-SES APS employees. Processing your request would unreasonably divert resources that would otherwise be dedicated to performing the essential operations of the agency.

Amount of time to process your request

13. Based on a preliminary assessment of the volume of documents and a review of a sample of their contents, a breakdown of the time estimated for each stage in processing a request is approximately:

Search and retrieval	Time required to undertake tasks
Executing searches, examining relevant documents and collating documents	up to xx hours
Decision making	
Identify and examine relevant documents	up to xx hours
Redacting pages	up to xx hours
Consult third parties	up to xx hours
Writing statement of reasons	up to xx hours
Compiling schedule of documents	up to xx hours
Process Subtotal	up to xx hours
Process Total (minus ‘first 5 hours free’)	up to xx hours

Request consultation process

14. You now have an opportunity to revise your request to enable it to proceed.
15. Revising your request can mean narrowing its scope to make it more manageable or explaining in more detail the documents rather than the information you wish to access. For example, by providing more specific information about exactly what documents you are interested in, the Commission will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.
16. Before the end of the consultation period, you must do one of the following, in writing:
- withdraw your request;
 - make a revised request; or
 - tell us that you do not wish to revise your request.
17. The consultation period runs for **14 days** and starts on the day after you receive this notice.
18. During this period, you are welcome to seek assistance from the Commission to revise your request. If you revise your request in a way that adequately addresses the

practical refusal grounds outlined above, we will recommence processing it. Please note that under subsection 24AB(8) of the FOI Act the time taken to consult you regarding the scope of your request is disregarded for the purposes of the 30 day time limit for processing your request.

19. If you do not do one of the three things listed above during the consultation period or you do not consult the Commission during this period, your request will be taken to have been withdrawn.

Contacts

20. If you require clarification on matters in this letter please contact the Commission's FOI Officer by email at foi@apsc.gov.au.

Yours sincerely

Name of decision maker

Authorised FOI decision maker

(date)

s47F [Redacted]

From: s47F [Redacted]
Sent: Thursday, 14 March 2024 11:00 AM
To: FOI
Subject: Template - Courtesy consultation [SEC=OFFICIAL]

OFFICIAL
Good afternoon FOI team

The Australian Public Service Commission (the Commission) has received a freedom of information request which concerns the [Agency name].

The applicant is requesting:

[applicant's request copied and pasted]

[Optional - provide context of the document].

For action

We are seeking your views on the attached document/s. Please state if you have any objections to the release of this by [date]. If no response is received by this time, we will assume you have no objections to the release of this information.

While your comments will be taken into account in the decision making process, the decision-maker within the Agency is obliged to form their own view regarding the appropriateness of release.

Kind regards

s47F

From: s47F
Sent: Friday, 8 December 2023 9:26 AM
To: FOI
Subject: Document Searches [SEC=OFFICIAL]
Attachments: 2.Exemptions and condition exemptions under the FOI Act.pdf; 3. Document Search Minute.DOCX

OFFICIAL

Good afternoon team,

The Commission has received a request under the Freedom of Information Act 1982 (FOI Act) for access to:

- **Applicant's request copied and pasted (Remember to also attach applicant's original request as a PDF)**

I have attached the full application form. It is our understanding that you and your line areas are able to provide information and collate relevant documents in relation to this request. If you are unable to produce documents due to the request being an 'unreasonable and substantial diversion of resources', please let me know as soon as possible. I have also attached the Document Search Minute.

Action required

In line with FOI Business Rules, please conduct searches for documents that fall within scope of the request and then return a signed copy of the attached Document Search Minute (DSM) with all relevant documents by **(due date for docs)** to foi@apsc.gov.au. Please ensure to identify any sensitivities within the documents you believe should not be released (see attached exemptions guidance to assist). The decision-maker will take your comments into consideration.

OAIC Guidelines

- An FOI request should be interpreted as extending to any document that might reasonably be taken to be included within the description the FOI applicant has used.
 - All possible locations where documents may be located should be searched by an agency.
- Records of searches should be taken and retained. The DSM should be a central component of these records. Additional records may include internal emails and file notes kept by individuals of the searches.

Kind Regards,



Australian Government
Australian Public Service Commission

(Name)

By email:

Our reference: LEX (number)

Dear Name

Freedom of Information request

1. I am writing about your Freedom of Information (FOI) request under the *Freedom of Information Act 1982* (FOI Act) made on (date request was received) for access to documents held by the Australian Public Service Commission (the Commission).
2. The FOI Act and all other Commonwealth legislation referred to in this letter are publicly available from www.legislation.gov.au.

Documents relevant to your request

3. You requested access to documents on the following terms:

Copy and paste the foi request here and put in Italic

4. The context you provided for the scope of your request is:

Copy and paste any other relevant information provided by applicant in relation to their request. Put in Italic. Delete section if no further information.

Decision

4. I am authorised under subsection 23(1) of the FOI Act to make FOI decisions.
5. I am satisfied that all reasonable steps have been taken to locate documents relevant to your request.
6. I have identified two (2) documents in scope of your request.
7. I have decided to grant you full/partial access to both documents.
8. **Attachment A** sets out the documents to be released.

Review rights

9. You are entitled to seek review of this decision. Your review rights are set out at **Attachment B**.

Contacts

10. If you require clarification on matters in this letter please contact the Commission's FOI Officer by telephone on (s22 [REDACTED]) or by email at foi@apsc.gov.au.

Yours sincerely

Authorised FOI decision maker

(date)

SCHEDULE OF DOCUMENTS

Document	Description	Exemption grounds
1		Release in full
2		Release in full

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (the FOI Act) may give you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. an internal review by an different officer of the Australian Public Service Commission; and/or
2. external review by the Australian Information Commissioner.

There are no fees applied to either review option.

Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be made in writing within 30 days of receiving this letter to:

Email: foi@apsc.gov.au
Post: The FOI Officer
 Australian Public Service Commission
 B Block, Treasury Building
 GPO Box 3176
 Parkes Place West
 PARKES ACT 2600

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original FOI decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (the OAIC) from the date you received this letter or any subsequent internal review decision.

You can lodge your application:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au

s47F

From: s47F
Sent: Friday, 8 December 2023 9:09 AM
To: FOI
Subject: IR Acknowledgement Letter [SEC=OFFICIAL]

OFFICIAL

Good **morning/afternoon (name)**,

The Australian Public Service Commission (the Commission) is writing to acknowledge receipt of your request for internal review under the Freedom of Information Act 1982 (FOI Act).

The timeframe for responding to your internal review request is 30 days from the date of receipt. This timeframe for internal review may be extended in very limited circumstances. You will be notified if these circumstances arise and the timeframe is extended.

Please note that there is a new LEX number for your internal review request. All correspondences will be referred under **LEX (number)**.

Kind Regards,

s47F [Redacted]

From: s47F [Redacted]
Sent: Friday, 8 December 2023 10:33 AM
To: FOI
Subject: Notification to Applicant of Third-Party Consultation [SEC=OFFICIAL]

OFFICIAL
OFFICIAL
Dear [Name],

On s22 [Redacted] you requested access to:

(applicant's request)

I am writing to notify you that the scope of your recent FOI request includes one or more documents containing personal/business information about one or more third parties. In accordance with sections 27 and 27A of the FOI Act, the Commission is required to consult with relevant third parties about the disclosure of their personal/business information.
The timeframe for responding to your request is therefore extended by 30 days under subsection 15(6) of the Freedom of Information Act 1982 to (new due date).

Kind Regards,

s47F

From: s47F
Sent: Friday, 8 December 2023 11:00 AM
To: FOI
Subject: Notification to Applicant of Transfer [SEC=OFFICIAL]

OFFICIAL

Dear [Name],

Thank you for emailing the Australian Public Service Commission's Freedom of Information (FOI) team.

We are writing to inform you we have transferred your FOI request to the <name of agency> ,

If you have any questions relating to your FOI request, please forward them to <other agency general FOI inbox> .

Kind Regards,



Australian Government
Australian Public Service Commission

Applicant's name

By email: applicant's email

Our reference: LEX number

Dear Applicant

Freedom of Information request

1. I am writing about your request dated **(date request was received)** for access to documents under the *Freedom of Information Act 1982* (FOI Act) held by the Australian Public Service Commission (Commission).
2. I am an authorised officer under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information (FOI) requests.

Your request

3. You requested access to documents in the following terms:

"applicant's request in Italics"

My decision

4. As I advised you on **(date consultation notice was sent)**, I decided that a practical refusal reason existed for your FOI request under section 24AA of the FOI Act and initiated a 'request consultation process'. In that letter I requested you withdraw your request, revise it or tell us you do not wish to revise it.
5. You wrote to me on **(date applicant responded)**, where you provided submissions and agreed to re-scope parts of your request.
6. You narrowed down the scope of your request to:

"re-scoped request in Italics"

7. I am writing to you now to advise that following a request consultation process, I am satisfied that a practical refusal decision still exists. I am therefore refusing your request under paragraph 24(1)(b) of the FOI Act.

8. In making this decision I have had regard to:

- the terms of your request.
- the terms of your submissions in response to the request consultation process.
- the FOI Act; and
- the FOI Guidelines issued by the Australian Information Commissioner.

Reasons

8. I am of the view that processing your request would be a substantial diversion of the Commission's resources because if it is accepted that the request provides such information concerning the document/s as is reasonably necessary to enable a responsible officer of the Commission, to identify it:

- identifying, locating and or collating documents would be onerous as it is estimated that the volume of documents found will be significant and an employee will need to examine each document
- formal consultation under the FOI Act with multiple different third party individuals will be required; and
- the contents of the documents will require diligent examination, a subjective assessment of its content, and likely involve significant redactions.

9. I am also of the preliminary view that processing your request would be an unreasonable diversion of the Commission's resources because:

- the Commission is a portfolio agency, with limited staffing resources available;
- the Commission does not have, nor has ever previously required, any permanent dedicated FOI staffing resources as it has historically received a low number of FOI requests that are capable of being managed within the existing resources;
- the Commission has limited capacity to obtain temporary resourcing in considering the impact of processing your request; and
- the Commission is currently working on a number of priority matters and processing your request would unreasonably divert resources that would otherwise be dedicated to performing the essential operations of the agency.

10. The amount of time estimated to process your request remains as indicated in the request consultation notice.

Review rights

11. You are entitled to seek review of this decision. Your review rights are set out at **Attachment A**.

Contacts

12. If you require clarification on matters in this letter please contact the Commission's FOI

Officer by email at foi@apsc.gov.au.

Yours sincerely

Name of decision maker

Authorised FOI decision maker

date

s47F

From: s47F
Sent: Wednesday, 13 March 2024 5:42 PM
To: FOI
Subject: Template for s15AA extension [SEC=OFFICIAL]

OFFICIAL

Dear [Applicant]

We refer to your correspondence dated XX seeking information under the Freedom of Information Act 1982 (FOI Act).

Extension request

We note that a decision is due to you on (due date of request). Section 15AA of the FOI Act allows an agency to extend the due date of the request by no more than 30 days with the written agreement from the Applicant.

For your consideration, [reason as to why you require an extension, i.e. high volume of documents, numerous consultations required]. We kindly seek your consent to an extension of 30 days to process your request.

Please let us know if you approve of this extension by COB XX.

Kind regards

s47F

From: s47F i
Sent: Friday, 8 December 2023 10:37 AM
To: FOI
Subject: Third-Party Consultation [SEC=OFFICIAL]

OFFICIAL

Dear [Name],

I am writing to you to let you know about a freedom of information (FOI) request the Australian Public Service Commission (Commission) has received containing your **personal/business** information.

Under the *Freedom of Information Act 1982* (the FOI Act), where an Australian Government agency receives a request for access to documents containing another person's personal or business information and the agency believes that the other person may object to the release of the documents, the agency is required to consult that person before making a decision to grant access.

Subject of the FOI request

The FOI request relates to **[brief summary of request]**.

Find attached a copy of the relevant documents that refer to your personal/business information for ease of reference.

Opportunity to make a submission

I invite you to tell me of any objection you may have to the release of the documents I have referred to.

If so, please give your reasons so that the Commission can make an informed decision about whether to grant access to the FOI applicant.

How to make your submission

Please send us your comments in writing by **close of business [one week from date of email]** and respond to the FOI team through foi@apsc.gov.au.

If a response is not received by this date, the relevant FOI decision maker within the Commission will assume you do not object to the release of the documents.

Kind Regards,

s47F

From: s47F
Sent: Friday, 8 December 2023 10:57 AM
To: FOI
Subject: Transfer Request to Another Agency [SEC=OFFICIAL]

OFFICIAL

Dear FOI team,

The Commission's Freedom of Information (FOI) team has received an FOI request on <insert date of request> from an applicant seeking documents relating to <provide a brief background>.

We are seeking to transfer this request to your agency given it is more closely connected with your agency's functions.

If you believe the transfer of this FOI request is appropriate, please confirm you accept transfer under paragraph 16(1)(b) of the Freedom of Information Act 1982.

If your agency does accept transfer, we will notify the applicant.

If you have any questions, please feel free to contact me directly through my signature block details below.

Kind Regards,

APSC FOI management procedures

This document sets out key points about the management of FOI.

This is filed in the ADMIN folder of the FOI inbox and in [this ShareHub folder](#).

General

FOI primary decisions are processed by an APS5/6 officer (assisted by a Graduate and 1C'ed by their EL1 supervisor if applicable). Internal Review and Information Commissioner Reviews are processed by the other EL1 officer who had no involvement in the primary decision.

FOI File Management

- The FOI spreadsheet is the central location for day-to-day management of the FOI matters, including IR and IC matters. This must be kept up to date as it will assist with OAIC quarterly and annual statistical reporting.
s47E
- We use the matter management system [LEX](#). Each FOI matter needs a LEX file created, to be then be closed recording the decision notice when issued.
- Each file also has a ShareHub file, where we save all correspondence related to the matter. Folders for primary requests are created here s47E
- We have a folder structure in the FOI group inbox to manage the inbox. The central inbox should only contain items to be actioned or filed. All other correspondence should be saved in the relevant ShareHub file and then moved into the relevant inbox folder.

In short, administratively each FOI request requires:

1. a ShareHub folder to be created;
2. a LEX file to be created;
3. a new row on the FOI spreadsheet, and its status continually updated including details of finalisation e.g. whether documents were released, whether request was withdrawn etc;
4. an inbox folder created in the FOI group inbox, where correspondence and items are moved into from the central inbox once actioned and saved in ShareHub;
5. the LEX file to be closed, attaching the decision once issued; and
6. a request made for the documents to be uploaded to the FOI disclosure log if required.

Templates and signature block

Draft FOI template documents and letters are located here: s47E

See also *Attachment A* for a template document search request email. Attachments to this email are located in the same Sharehub folder. Please feel free to redraft or better these materials as appropriate.

Any external correspondence should be sent from the foi@apsc.gov.au email, not our personal emails, and contain the FOI Officer signature block.

Requesting searches for documents from pre-2019

Prior to 2019 our IT and Records were managed and held by DEWR (then DESE) before active email records were transferred across to PM&C.

If you need to request searches for documents (particularly inactive email records) from pre-2019, you need to contact the DEWR FOI team at s22

FOI disclosure Log

A decision to add a [FOI disclosure log](#) entry should be considered in accordance with subsection 11C(1) of the FOI Act.

A request to the web team can be made to the Web team at s22 and contain the following details:

Reference Number: [LEX number]

Access date: [xx]

Request: [Name of request]

Information published: [Insert right to know link] or provide documents as attachments

Other information: [Full or Partial Disclosure]

s22

FOI statistical returns

Every quarter the Commission needs to lodge quarterly statistics with the OAIC's Agency Statistical Returns [website](#). This is usually done by an APS5/6 in the team.

Previous statistics are filed in Sharehub: s47E

Our login details are as follows:

s47E

At the end of each quarter the Commission enters the document statistics onto the website as part of its Quarterly Statistical Returns. Statistics must be entered within 21 days after the end of the relevant quarter.

There are also Annual Statistical Returns that need to be completed annually and entered by 31 July after the end of the relevant financial year. As the Commission does not time record FOI processing,

we usually estimate the data for these figures based on previous returns and the number of requests processed in a financial year.

s47E



Template document search request email to line areas

Dear [Group name]

The Australian Public Service Commission (the Commission) has received the attached FOI request from [xx].

Scope of Request

The Applicant requests the following documents:

[xx]

Please refer to the full request attached for more detail or advise if any additional clarification is required for you to process the scope of this request.

It is our understanding that your [Group/Team] is able to provide information and collate relevant documents in relation to this request.

Action required

Please conduct searches for documents that fall within scope of the request and then return a signed copy of the attached Document Search Minute (DSM) with all relevant documents in PDF form by [xx] to foi@apsc.gov.au.

Please ensure to identify any sensitivities within the documents you believe should not be released (see attached exemptions guidance to assist). The decision-maker will take your comments into consideration.

OAIC Guidelines

- An FOI request should be interpreted as extending to any document that might reasonably be taken to be included within the description the FOI applicant has used.
- All possible locations where documents may be located should be searched by an agency.
- Records of searches should be taken and retained. The DSM should be a central component of these records.

For further information on these guidelines, please refer to the OAIC website.

Please contact the Legal Team if you have further questions or wish to discuss this request.

Kind regards

Template document search request email to IT (Help-ITServiceDesk@pmc.gov.au)

Good morning IT Helpdesk

The Commission has received a request under the Freedom of Information Act 1982 under the following terms:

[xx]

Action required

Grateful if you could please search for all emails that fit the below search criteria:

[xx – e.g. emails, date period, key terms]

Please conduct searches for documents that fall within scope of the request by [xx].

Please export and copy the files to the desktop of my laptop – Asset number [xx].

We would also be grateful if you can advise us of the total amount of hours this search (including preparation of files for exporting and emails) has taken your team.

Please contact the Legal Team via foi@apsc.gov.au if you have further questions or wish to discuss this request.

Kind regards

Document 16

COMPLEX ELECTRONIC

FOI CHARGES ESTIMATE TOOL - COMPLEX ELECTRONIC			
(insert data in shaded boxes only)			
GENERAL DATA ESTIMATE			
(terms in red are explained on the notes sheet)			
Hits returned to consider for relevance	0	in A4 pages	
Percentage (approx) of hits which are relevant	0%		
Number of discrete relevant documents	0		
Percentage (approx) of relevant pages to disclose in whole	0%		
Percentage (approx) of relevant pages requiring redaction	0%		
Percentage (approx) of content that is applicant's own personal information	0%		
Number of third parties to consult	0		
PROCESS - search and retrieval			
	TIME per task	charge time:	COST @ \$15 per hr
Time required to execute searches - enter hours (including part hours eg 0.5)	0	0.00	\$0.00
Examining hits to identify relevant documents - enter minutes per 10 pages	0	0.00	\$0.00
Collating bundle of relevant documents - enter hours	0	0.00	\$0.00
Preparing schedules detailing all relevant documents (basic data entry eg doc no, date, description) - enter minutes per 10 documents	0	0.00	\$0.00
<i>Search & Retrieval Subtotal</i>		0.00	\$0.00
PROCESS - decision-making			
	TIME per task	charge time:	COST @ \$20 per hr
Examine relevant pages for decision making - enter minutes per page	0	0.00	\$0.00
Redacting pages that are partially disclosed - enter minutes per page	0	0.00	\$0.00
Consult third parties - enter average per third party in hours	0	0.00	\$0.00
Preparation and notification of decision			
Writing statement of reasons - enter hours	0	0.00	\$0.00
Complete schedule by recording decision @ 4 documents per minute		0	\$0.00
<i>Decision-making Subtotal (before deduction of 5 hours)</i>		0.00	\$0.00
<i>Decision-making Subtotal (after deduction of first 5 hours free for all)</i>		0.00	0
ACCESS - view / inspect			
	TIME per task	charge time:	COST @ \$6.25 per 1/2 hr
Supervised inspection of documents - minutes per page	0	0.00	0.00
Supervised inspection of audio/visual material - insert total duration of material in minutes then add 30 mins set-up and pack-up time	0	0.00	0.00
<i>Inspection/Viewing Subtotal</i>		0.00	\$0.00
ACCESS - copy and post			
		PAGES	COST @ 10c a page
Photocopies of estimated released pages (including those with deletions) - set to 0 if providing electronically		0	\$0.00
Electronic media (eg USB drive, CD-ROM) and/or postage - insert estimated cost of materials			
<i>Access Subtotal</i>			\$0.00
ESTIMATED TOTALS			
NUMBER OF RELEASED PAGES			0
TIME (in hours)			0.00
TOTAL COST			\$0.00
Financial hardship/public interest discount (as %)		0%	\$0.00
TOTAL COST (after discount)			\$0.00
MAXIMUM DEPOSIT			N/A
USING THIS TOOL			
This tool assists in generating an estimate but should not be considered definitive or binding. The Office of the Australian Information Commissioner has emphasised the need for agencies to base estimates on a reasonable sampling of relevant documents to ensure that appropriate assumptions are used to generate estimates for charging purposes. Some IC review decisions suggest a sample of 10-20% would be 'reasonable'.			



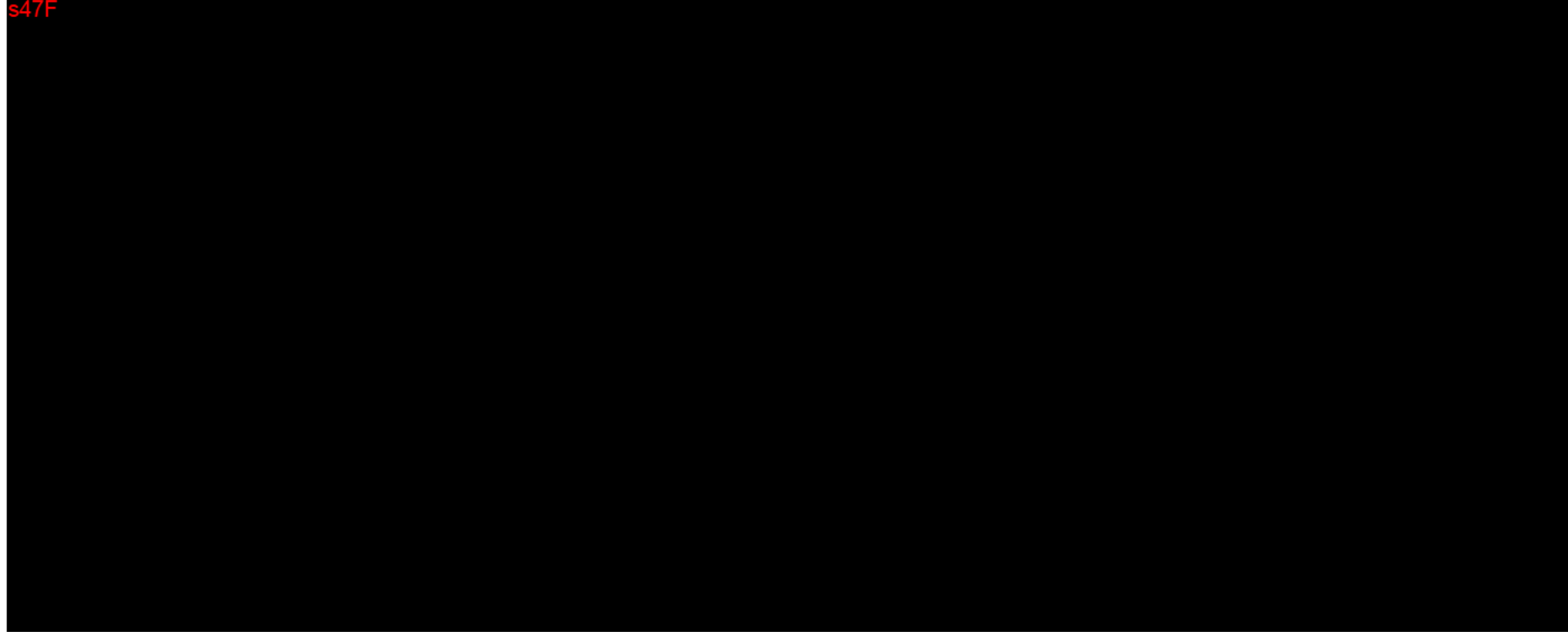
Freedom of Information Training

21 November 2023



Introduction to the team

s47F



FOI Training Overview

Welcome to this FOI Training!

Why are we running this training?

- To provide you with an overview of the *Freedom of Information Act 1982*, and how FOI processing works.

In this training, we will cover the:

- Importance of the FOI Act
- FOI authorisations
- FOI request processing and where you may fit in the process
- FOI exemptions
- Administrative release
- FOI scenario

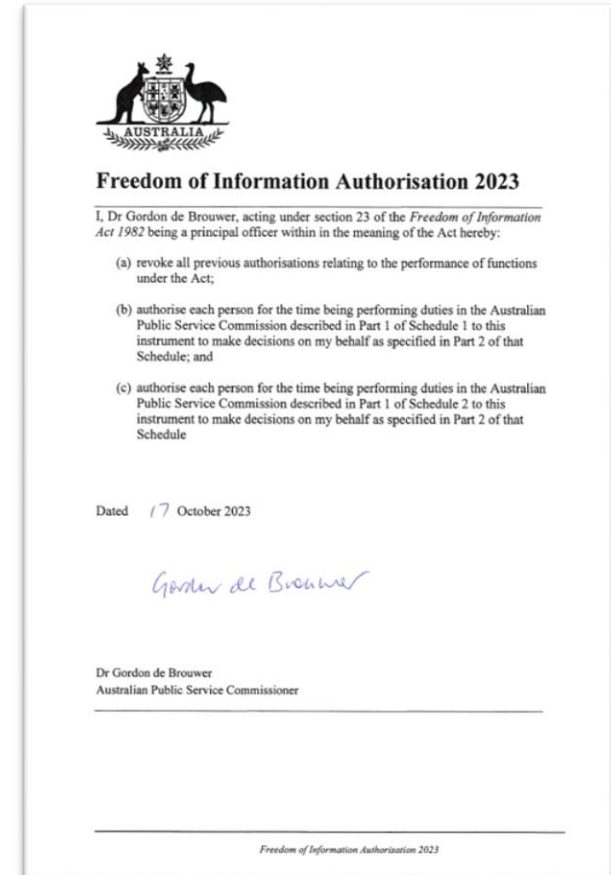
Importance of the FOI Act

- The FOI Act provides a legal framework for the public to request access to documents held by the Australian Government.
- Everyone also has a right to request access, amendment or annotation of their own personal information held by the Australian Government.
- FOI operates as an important check on government decision making.

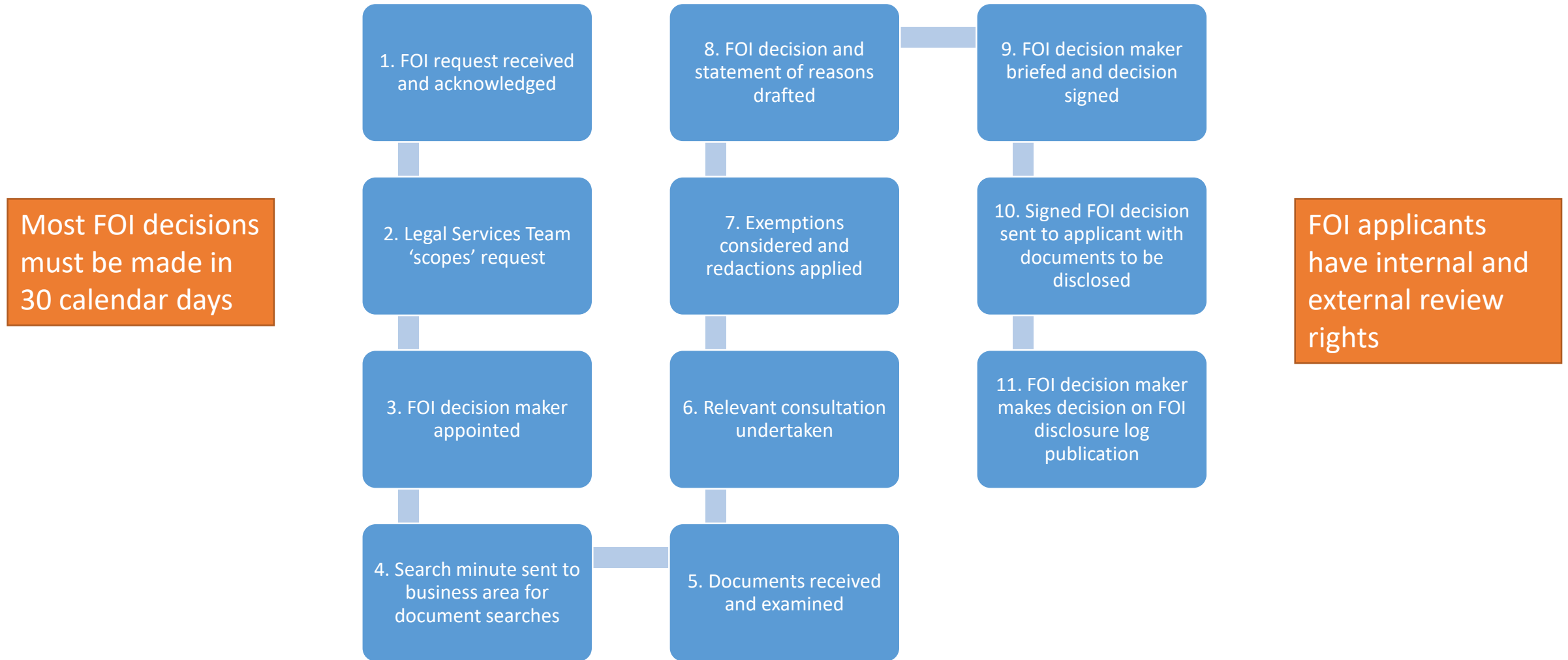


FOI authorisations

- The Commissioner is the Commission's FOI principal officer
- Principal officers are responsible for FOI decisions and can authorise FOI decision making functions to officers
- New FOI authorisations came into effect on 17 October 2023
- Commission EL2 employees can now make most FOI decisions relating to their area
- All SES employees, Executive Directors and General Counsel can make all FOI decisions



FOI request processing



Where you might fit

- Appointment as an FOI decision maker depending on your classification.
- Conducting searches for documents.
- Being consulted on potential document disclosure.
- You may be an FOI applicant.



FOI exemptions

- Two types, exemptions and conditional exemptions.
- Examples of exemptions, include cabinet documents and legally privileged documents.
- Examples of conditional exemptions, include deliberative matter, certain operations of agencies and personal privacy.
- Conditional exemptions require a weighing up of the public interest for and against disclosure.
- Information in documents can also be redacted if it is irrelevant to the FOI request.

REDACTED

Administrative release

- Not all requests for documents need to be processed as an FOI request.
- With the consent of an FOI applicant, a request can be dealt with informally outside of the FOI Act.
- Some examples include, an applicant seeking their own APSED record, requests for policies and procedures etc.



FOI scenario

- You are an FOI officer in a fictional agency.
- You received an FOI request a week ago. The request simply asked for documents that contained the word ‘Spike’.
- The business area has conducted a search and found one document. They are scared of the embarrassment its release would cause.
- What exemptions do you think could apply?

Document 1

Hi Bob

Have you heard from the FOI team on that FOI decision they were working on? To refresh your memory, I said we shouldn't release the legal advice in there because it said dogs can't legally land on the moon (yet). It'll be too embarrassing for the government when they promised dogs would be up there (like last year!).

On another unrelated note, I heard a new café is opened downstairs – is it any good?

I can't wait to go home this afternoon to play with Spike, my dog.

I have to leave early but if you need anything you can give me a buzz on 041234567.

Jared

Pet Policy Team

More information

If you need more information, feel free to reach out to pay us a visit on s47E s47E email us through foi@apsc.gov.au.

Other sources:

- [FOI Act](#)
- [FOI Guidelines](#)
- FOI authorisations
- [Office of the Australian Information Commissioner](#)



Exemptions checklist for FOI decision-makers

Freedom of Information Act 1982

The purpose of this checklist is to inform discussions between line areas, freedom of information (FOI) decision-makers and the Commission's Legal Services team on the applicability of exemptions under the *Freedom of Information Act 1982* (FOI Act).

The checklist includes the basic elements of FOI exemptions, including examples. It should be used as a general guide for line areas and decision-makers to help identify potential exemptions when reviewing documents within scope of an FOI request. It is not intended to be a full substitute for advice from the Commission's Legal Services team.

References to the relevant provisions of the FOI Act and the Office of the Australian Information Commissioner FOI Guidelines (FOI Guidelines) have been provided.

Exemption	YES	NO	N/A
<p>National security, defence or international relations documents</p> <p><i>Would disclosure reasonably be expected to:</i></p> <ul style="list-style-type: none"> • <i>cause damage to the Commonwealth's security, defence or international relations? OR</i> • <i>divulge information communicated in confidence to the Commonwealth by a foreign government or an international organisation?</i> <p>Reference: section 33 of the FOI Act and [5.24]-[5.54] of the FOI Guidelines</p>			
<p>Cabinet documents</p> <p><i>Would disclosure reveal documents containing cabinet submissions, proposals for cabinet submissions, confidential deliberations or decisions of Cabinet, official records of the Cabinet, ministerial briefs on a cabinet submission, or drafts of cabinet submissions?</i></p> <p>Reference: section 34 of the FOI Act and [5.55]-[5.78] of the FOI Guidelines</p>			

<p>Enforcement of law and protection of public safety documents</p> <p><i>Would disclosure reasonably be expected to:</i></p> <ul style="list-style-type: none"> • <i>prejudice an investigation into a possible breach of the law? OR</i> • <i>prejudice the administration of law enforcement/fair trial? OR</i> • <i>endanger the life or physical safety of another person?</i> <p>Example: disclosing documents relating to an ongoing Commission inquiry into the conduct of an Agency Head under the <i>Public Service Act 1999</i> may prejudice the inquiry process</p> <p>Reference: section 37 of the FOI Act and [5.79]-[5.117] of the FOI Guidelines</p>			
<p>Secrecy provision documents</p> <p><i>Would disclosure reveal a document subject to a specific secrecy provision either in the FOI Act or another Commonwealth law that prohibits disclosure of that document?</i></p> <p>Note: schedule 3 of the FOI Act lists some, but not all, of the secrecy provisions for the purposes of this exemption</p> <p>Reference: section 38 of the FOI Act and [5.118]-[5.125] of the FOI Guidelines</p>			
<p>Legally privileged documents</p> <p><i>Would disclosure reveal confidential communications between a legal adviser and client that were created for the dominant purpose of legal advice or for litigation?</i></p> <p>Example: lawyers in the Commission’s Legal Services team often provide legal advice to line areas within the Commission. These communications are generally confidential</p> <p>Reference: section 42 of the FOI Act and [5.126]-[5.154] of the FOI Guidelines</p>			
<p>Confidential material documents</p> <p><i>Would disclosure reveal communications that were originally communicated in confidence and could give rise to a court action for breach of confidence?</i></p> <p><i>For a breach of confidence to apply to documents, the information in the documents must:</i></p> <ul style="list-style-type: none"> • <i>be specifically identified; AND</i> 			

<ul style="list-style-type: none"> • <i>have the necessary quality of confidentiality; AND</i> • <i>have been communicated and received on the basis of a mutual understanding of confidence; AND</i> • <i>have been disclosed or threatened to be disclosed, without authority; AND</i> • <i>mean unauthorised disclosure of the information <u>has or will cause detriment</u></i> <p>Example: This might include documents that are marked confidential and appear to be treated that way between parties</p> <p>Reference: section 45 of the FOI Act and [5.155]-[5.172] of the FOI Guidelines</p>			
<p>Parliamentary Budget Office documents</p> <p><i>Would disclosure reveal confidential documents relating to or provided to the Parliamentary Budget Office or the Parliamentary Budget Officer?</i></p> <p>Reference: section 45A of the FOI Act and [5.173]-[5.180] of the FOI Guidelines</p>			
<p>Contempt of Parliament or court documents</p> <p><i>Would disclosure be:</i></p> <ul style="list-style-type: none"> • <i>in contempt of court? OR</i> • <i>contrary to an order or direction of a Royal Commission, tribunal or other similar body having power to take evidence on oath? OR</i> • <i>infringing on the parliamentary privilege of the Parliament of the Commonwealth, a State or a Territory?</i> <p>Example: disclosing documents contrary to a court order that prohibits those documents disclosure will mean the Commission is in contempt of court</p> <p>Reference: section 46 of the FOI Act and [5.181]-[5.195] of the FOI Guidelines</p>			
<p>Commercially valuable information documents</p> <p><i>Would disclosure reveal trade secrets or other commercially valuable information that would reasonably be expected to be destroyed if disclosed?</i></p>			

<p>Example: in the course of dealings between the Commission and a service provider, the service provider might provide documents to the Commission with that service provider’s own commercially sensitive information that would give its competitors an unfair advantage if disclosed</p> <p>Reference: section 47 of the FOI Act and [5.196]-[5.208] of the FOI Guidelines</p>			
<p>Electoral roll documents <i>Would disclosure reveal an electoral roll or an electoral roll-related document?</i></p> <p>Reference: section 47A of the FOI Act and [5.209]-[5.211] of the FOI Guidelines</p>			
<p>Commonwealth-State relations documents <i>Would disclosure:</i></p> <ul style="list-style-type: none"> • <i>reasonably be expected to damage the relations between the Commonwealth and a State or Territory? OR</i> • <i>divulge information communicated to the Commonwealth by a State or Territory?</i> <p>For example: this exemption may apply to documents that affect Commission and State or Territory relationships</p> <p>Reference: section 47B of the FOI Act and [6.29]-[6.51] of the FOI Guidelines</p>			
<p>Deliberative process documents <i>Would disclosure reveal deliberative matter?</i></p> <p><i>Deliberative matter means either:</i></p> <ul style="list-style-type: none"> • <i>opinions, advice or recommendations obtained, prepared or recorded by an agency; OR</i> • <i>consultation or deliberation that takes place for a deliberative process of the government, an agency or minister</i> <p>Example: documents in the nature of discussions that inform the making of a decision under legislation, ministerial or commissioner briefings, agenda papers for</p>			

<p>confidential meetings, such as the Integrity Agency Group meetings chaired by the Commission</p> <p>Reference: section 47C of the FOI Act and [6.52]-[6.88] of the FOI Guidelines</p>			
<p>Commonwealth financial or property interest documents</p> <p><i>Would disclosure have a substantial adverse effect on the financial or property interests of the Commonwealth or an agency?</i></p> <p>Reference: section 47D of the FOI Act and [6.89]-[6.94] of the FOI Guidelines</p>			
<p>Certain operations of agencies documents</p> <p><i>Would disclosure reasonably be expected to prejudice or have a substantial adverse effect on any of the following agency operations:</i></p> <ul style="list-style-type: none"> • <i>procedures or methods for the conduct of tests, examinations or audits? OR</i> • <i>attainment of particular tests, examinations or the conduct of audits? OR</i> • <i>management or assessment of Commonwealth or agency personnel? OR</i> • <i>proper and efficient conduct of agency operations?</i> <p>Example: disclosure of documents that reveal the identity of a discloser who has made a public interest disclosure to the Commission, may have a prejudicial effect on the Commission’s ability to conduct investigations under the <i>Public Interest Disclosure Act 2013</i></p> <p>Reference: section 47E of the FOI Act and [6.95]-[6.123] of the FOI Guidelines</p>			
<p>Personal privacy documents</p> <p><i>Would disclosure involve the unreasonable disclosure of personal information of any person?</i></p> <p>Example: the disclosure of documents that contain a person’s name, email address or other information that identifies the person, may be able to be exempted</p> <p>Note: The Commission does not normally apply this exemption to the personal information of agency heads and senior executive service employees</p>			

<p>Note: This exemption does not apply to the personal information of the requesting applicant</p> <p>Reference: section 47F of the FOI Act and [6.124]-[6.179] of the FOI Guidelines</p>			
<p>Business documents</p> <p><i>Would disclosure involve the unreasonable disclosure of:</i></p> <ul style="list-style-type: none"> • <i>a person’s lawful business or professional affairs? OR</i> • <i>an organisation’s business, commercial or financial affairs? OR</i> • <i>information that would otherwise prejudice the supply of information to the Commonwealth or an agency?</i> <p>Example: the Commission may have in its possession the financial information of a private organisation that would cause harm to the organisation if disclosed</p> <p>Reference: section 47G of the FOI Act and [6.180]-[6.213] of the FOI Guidelines</p>			
<p>Research documents</p> <p><i>Would disclosure:</i></p> <ul style="list-style-type: none"> • <i>reveal research being undertaken by the Commonwealth Scientific and Industrial Research Organisation or the Australian National University?</i> <p>AND</p> <ul style="list-style-type: none"> • <i>expose the researching entity to unreasonable disadvantage?</i> <p>Reference: section 47H of the FOI Act and [6.214]-[6.215] of the FOI Guidelines</p>			
<p>Economy documents</p> <p><i>Would disclosure have a substantial adverse effect on the Australian economy by:</i></p> <ul style="list-style-type: none"> • <i>influencing a decision or action of a person or entity? OR</i> • <i>giving a person or persons an undue benefit or detriment by providing premature knowledge of proposed or possible action or inaction of a person or entity?</i> <p>Reference: section 47J of the FOI Act and [6.216]-[6.222] of the FOI Guidelines</p>			

Everything Ya'll Need to Know about FOI

1. Processing FOI Requests

a) Request Received

- After receiving a new FOI request in the inbox, give it a LEX number, create a sharehub and an Outlook folder for it. There is a 'clock start' function on LEX which will tell you when the request is due (30 calendar days from receiving request). Send the applicant an acknowledgement letter within 14 days of receiving the request.

b) Document Searches

- Send document search request to relevant business area. Use document search template in outlook. It's good practice to usually give business area around a week to respond with documents.
- Along with the document search email, remember to add 3 attachments (1. Original FOI Request PDF, 2. Exemption and conditional exemption PDF, 3. Document Search Minute)
- If you are unsure if a business area holds documents, contact them first and ask if they would hold the relevant documents. If so – send them a formal document search request. If not – ask the line area if they know who might hold the relevant documents.
- Occasionally, you may need to conduct IT searches with PMC (**explained in part 2. a)**)

c) Acknowledgement letter

- For each FOI request, an acknowledgement letter must be sent to the applicant within 10 days of receiving the request. Template available on Outlook.

d) Re-scoping Request with Applicant

- Sometimes, a line area may advise that the request is too broad/big/impacting resources etc. In most occasions, it would be advisable to reach out to the applicant via email and explain that the request is too big and kindly ask them to narrow down the scope of their request. Give them a timeframe of a few days to respond.
- If the applicant narrows down the scope, send the revised scope to the business area.
- If the applicant does not respond, go down the route of practical refusal (**explained in part 2. b)**)
- Liaise with business areas and ask them to provide estimated hours to gather and assess documents.

e) Assessing Documents

- After receiving documents from business area, convert to PDF and combine all documents. After this, go through the documents and start assessing. Remember to not add in any documents that are out of scope (eg, applicant requested doc from 11/04/23 however doc from line area is dated 22/04/23).
- Check to see if any content within the document requires redactions. Add in proposed redactions (**explained in part 2. C**)
- Also check if there is a requirement for third-party and courtesy consultation (**explained in part 3**)
- Sometimes documents can be too big to send through in one email. The max limit for outlook is 25MB. The first step would be reduce the document size. **Steps: File – Save as other... - Reduced size PDF**
- If this step does not work, you will have to split the documents to multiple ones. Steps: **Tools – Pages – Split Document**

f) Drafting decision + Sending to decision maker

- Drafting a decision notice is one of the final steps of FOI. After assessing all documents (including responses from third-parties, courtesy consults etc.), it is time to draft the decision notice for the decision maker. Use the template that is in the templates folder in Outlook. Make sure to include exemptions and a document schedule if applicable.
- Once completed, send document + decision notice to the decision maker for signing off. **Remember: do not apply redactions unless approved by decision maker.** In the email sent to decision maker, right a short brief – include details to help inform them such as due date, applicant’s request, sensitivities etc.)

g) Disclosure Log Upload

- For disclosure log uploads, you will need to lodge a request first with PMC IT. Use this link: [s47E](#)
- I would recommend bookmarking the webpage. If the link is not working steps: Intranet – Corporate Services – Engagement and Communications Directorate – Make a Request
- Scroll down and select ‘simple requests’. This will take you to a request form. Fill out the form and submit, the APSC Web team will contact you shortly asking for details on disclosure log upload.
- Respond to the Web team with information on the disclosure log upload.

Example below:

Reference Number	Date of Access	Request	Information Published	Other Information
LEX 800	s22 (date applicant received docs)	Policies of the APSC in relation to records management	Documents 1 – 4	Partial Disclosure

Please note: Documents 1- 4 is to be a hyperlink to the attached document bundle.

- Right to know uploads are a bit different. Please see the process below.

Reference Number	Date of Access	Request	Information Published	Other Information
LEX 800	s22 (date applicant received docs)	Policies of the APSC in relation to records management	https://www.righttoknow.org.au	Partial Disclosure

- If you click on the rtk link, it will take you directly to the request information on the site (used a random request for this example). Follow these steps: Put the website url into table (<https://www.righttoknow.org.au>). Right click and click on 'edit hyperlink'. Under Address, paste the full link (https://www.righttoknow.org.au/request/aps_bargaining_survey) and then click ok. Always make sure the 'text to display' on the top says just the website URL.

2. Additional FOI Stuff

a) IT Searches

- To conduct IT searches, you will need to contact PMC IT. Send the IT team with the following table and relevant search criteria.
- Example 1: Applicant has requested email correspondences between staff members from 1 March 2023 to 29 April 2024 that mention cats or dogs.

Search Number	Date Range	1 st Search Criteria	2 nd Search Criteria	Results
1 (useful if multiple searches required)	1/03/23 to 29/04/24	Emails to and from all APSC staff: @apsc.gov.au	Must contain: Cats OR Dogs (There is a big difference between OR, AND in searches so make sure you read request carefully)	(IT will provide)

- Example 2: Applicant has requested emails from Justin Bieber and Mariah Carey in relation to APSC values and APSC policies. The date range is 12/08/22 to 15/09/22.

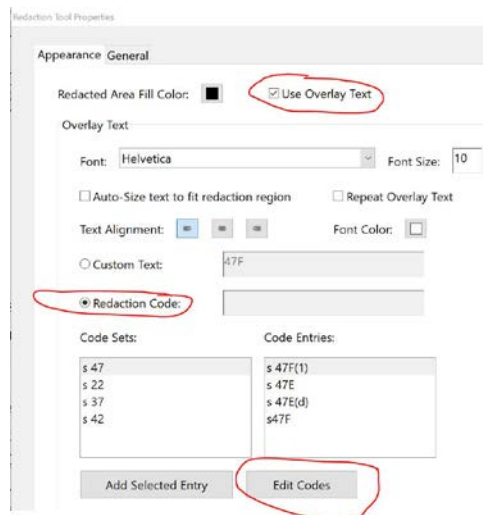
Search Number	Date Range	1 st Search Criteria	2 nd Search Criteria	Results
1 (useful if multiple searches required)	12/08/22 to 15/09/22	Emails to and from APSC staff: justin.bieber@apsc.gov.au mariah.carey@apsc.gov.au	Must contain: APSC Values AND APSC Policies	(IT will provide)

b) Practical Refusal

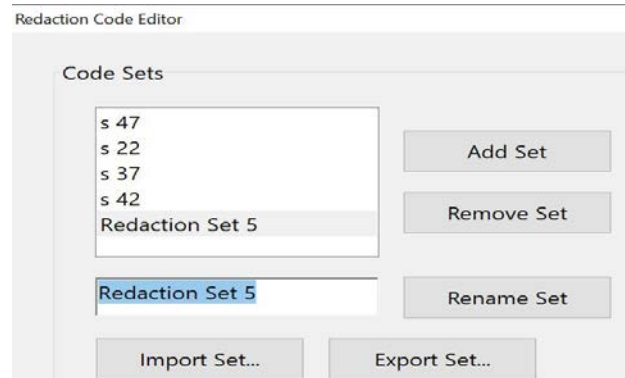
- If the line areas mention that they are unable to search for documents due to large scope, substantial of resources etc. or there are too many documents captured and you feel it would be difficult to assess all documents – ask the line area/s to send an email detailing reasons why this could be a substantial impact on them and include estimated hours it could take for them to complete these searches.
- Draft up a consultation notice (intention to refuse request) and send to decision maker for finalisation. Once signed, send to applicant.
- The applicant will now have 14 days after the day of sending to respond to us. If they do not respond, the application is automatically withdrawn and can be closed off.
- If they respond but do not revise their scope, start drafting a practical refusal decision and get it signed by decision maker.
- If they respond with a revised request, send it to the line area and ask if the revised scope is now achievable.

c) Redactions

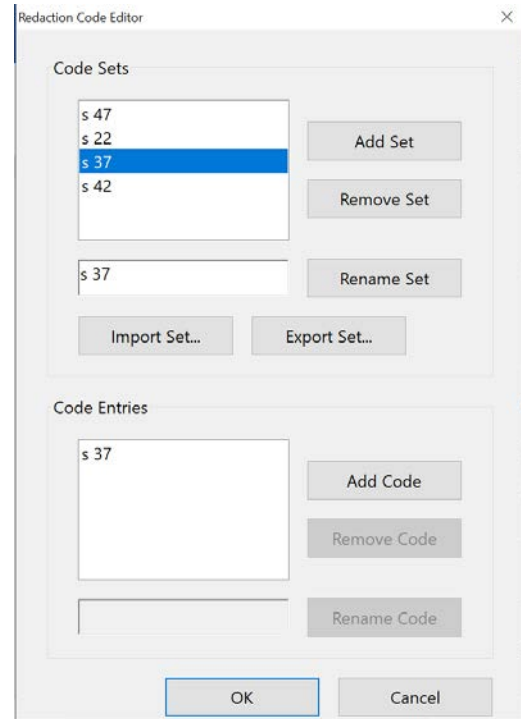
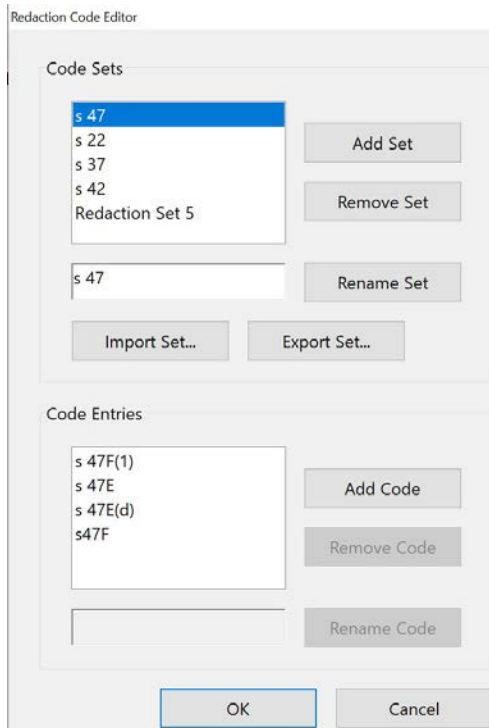
- To add in redactions, the first step is to add in redaction codes to Adobe. Once you add them in, they will be saved and can be used for next time.
- Steps: Tools – Protection – Redaction Properties



- In redaction properties, ensure the first two red circled items are selected. After this, select 'edit codes'.



- Select 'add set'. Click on the new 'redaction set' and enter in the redaction code you would like to add. Click on 'rename set'.
- For 'code entries' you can add in subsections of redactions (**see example below**).
- If you do not have a subsection to add, just enter the one you entered for 'code sets'.



- Now it is time to mark redactions. Under 'protection', select 'mark for redaction'. After selecting this, go through the document and highlight sections you wish to redact.
- After highlighting, right click on the redacted text and you will see a dropdown menu of your entered redaction codes. Select the one you wish to apply.
- The last step is to apply the redactions. However **do not apply** unless you are 100% sure or the decision maker has agreed to the proposed redactions. This is because once redactions are applied, you cannot edit or change it back.

3. Third-Party and Courtesy Consultations

a) Third-Party Consultation

- If the documents include third-party information such as personal details of an individual (name, email etc.) or details of a business, you will need to conduct third-party consultation with the individual/s. If you conduct third-party consultation, you will get an extra 30 days to process the request.
- Send the documents with redactions (if required) to the third-party and check if they have any concerns with the release of the information/documents.

b) Courtesy Consultation

- Sometimes you may need to do courtesy consultation with other agencies.

- If this is the case, send an email to the FOI team of that agency notifying them of courtesy consultation. Attach the document you are consulting on (with redactions if applicable). In the email state if they have any objections and give them a timeframe to respond to you by.
- Sometimes agencies will email the APSC for courtesy consultation. Carefully read through the documents and determine which business area this should go to. Once you are sure, forward the original email from the agency and ask the line area to respond to you with their views/objections. Give them a timeframe to respond to you so you have time to respond to the agency.
- Make sure for any courtesy consultations received, you give it a LEX number and file it in the appropriate place – 5. COURTESY CONSULTATIONS in Outlook.

4. Internal reviews

- Applicants have the right to request for an internal review if they are unhappy with the original decision that was provided to them.
- Send the applicant an acknowledgement letter of internal review
- If you are assessing an internal review, the first step is to gather all relevant documents and combine them.
- Relevant documents include but are not limited to:
 - a) Original FOI request of applicant
 - b) Document searches that were conducted
 - c) Original decision that was sent to applicant
 - d) Applicant's request for internal review
 - e) Acknowledgement of internal review that was sent to applicant
- Send the documents and brief the decision maker about the internal review and give them any background information they may need to assist them with their decision.

5. Request Transfers

- Sometimes an applicant may send us a request that belongs to another agency. In this instance, send an email to the relevant agencies FOI team and ask if the documents will be held with them and request if they can accept a full transfer. If they accept full transfer, the matter will be closed off from the APSC's end. Notify the applicant that the request has been transferred to another agency.
- If an agency seeks transfer from the APSC, check the scope of the request and see if the Commission would hold any documents. Either accept or reject transfer of the request.

6. Weekly/Monthly Reports

- Each week, there are FOI reports which are sent to the Deputy Commissioners and the Commissioner. Make sure to update this report on Friday of each week and send to §22 [REDACTED] by the end of the day.
- The monthly FOI reports are sent to Executives and Ministers and will contain a lot less information. Complete these reports at the end of the month and send to §22 [REDACTED] on the last day of the month.

7. OAIC FOI Statistics

- Each quarter, FOI statistics must be submitted to the OAIC website. The dates are as follows:
 - a) 1 July to 30 September: must be submitted by 21 October
 - b) 1 October to 31 December: must be submitted by 21 January
 - c) 1 January to 31 March: must be submitted by 21 April
 - d) 1 April to 30 June: must be submitted by 21 July.
- Use this link: <https://foistats.oaic.gov.au/>
- Login details are as follows:
 - a) Username – §47E [REDACTED]
 - b) Password - §47E [REDACTED]
- Once you complete the statistics on the site, it will automatically submit. No need to press any submit button.

8. Templates

- All templates will be available in a new Outlook folder. To access, got to the FOI inbox and you find a folder named 1. TEMPLATES.

CONGRATULATIONS – you have now become a certified FOI Officer. Well done!!



Legal Services – Freedom of Information

Business Rules

Purpose

To establish the key roles, responsibilities, timeframes and procedures for the Australian Public Service Commission (the Commission) in processing FOI requests made under the [Freedom of Information Act 1982](#) (the FOI Act).

Summary

The Legal Services team coordinates all FOI and related requests received by the Commission and provides support to authorised decision makers. The Legal Services team also undertakes consultation and reporting activities relating to the FOI function.

Decision makers are, with support from Legal Services and relevant line areas, responsible for:

- keeping abreast of key steps and time frames in FOI processing, as advised by Legal Services;
- being satisfied that reasonable searches for documents are undertaken;
- identifying document sensitivities, including third parties or other agencies requiring consultation, and discussing those in the context of FOI exemptions; and
- being satisfied that decisions are made in accordance with the FOI Act.

Overview – FOI Act objects and obligations

The FOI Act provides a legally enforceable right of access to documents held by Australian Government agencies, subject to certain exemptions. The FOI Act also provides a mechanism for persons to seek amendment or annotation of personal records held about them under certain circumstances.

The FOI Act applies to most Commonwealth agencies, including the Commission, and to Ministers.

The objects of the FOI Act include to promote Australia's representative democracy by increasing public participation in Government processes and scrutiny, discussion, comment and review of Government activities.

The objects also specifically state that information held by the Government is to be managed for public purposes, and is a national resource.

Compliance with the FOI Act is a statutory obligation, with clear, enforceable timeframes. The relevant regulatory body is the [Office of the Australian Information Commissioner](#) (OAIC). The OAIC has power to review agency FOI decisions and undertake investigations of FOI complaints, amongst others.

Effective document searches

A document under the FOI Act is [defined](#) to encompass a variety of information sources, including:

- draft materials;
- handwritten notes;
- voicemails; and
- informal communications such as skype messages or text messages.

All documents held by Government are subject to the FOI Act. No document is automatically out of scope merely because it was created, for example, by a junior employee, contractor or received from an external source. Similarly, documents that contain personal, or third party information remain subject to the FOI Act where the document, or part of the document falls within the scope of an FOI request. Any sensitivities with a document should be discussed with Legal Services and/or the decision maker.

Roles and responsibilities

The FOI Act places a statutory obligation on agencies to undertake certain activities when processing FOI requests. These include that agencies take reasonable steps to assist a person to make a valid FOI request, undertake regular communication with the applicant and that authorised decision makers provide a decision on access to requested documents within mandated timeframes.

All APSC Staff

Staff of the Commission support four different bodies under the FOI Act:

- 1) the Australian Public Service Commissioner;
- 2) the Merit Protection Commissioner (MPC);
- 3) the Remuneration Tribunal (RT); and
- 4) the Defence Force Remuneration Tribunal (DFRT).

Any Commission employee may be requested to undertake searches for documents requested under the FOI Act from time to time. All employees should familiarise themselves with the objects and scope of the FOI Act, and the [definition](#) of a 'document'.

Legal Services are available to support APSC staff where questions arise.

Decision makers

The Australian Public Service Commissioner has [authorised](#) all Commission SES employees, including those acting in this capacity, to make decisions under the FOI Act. In addition, General Counsel and Legal Services team members are authorised to make primary decisions. Internal and external review decisions can be made by General Counsel or SES employees. Legal Services works closely with decision makers as part of this process.

The MPC, RT and DFRT each have separate authorisations in respect of FOI requests received by those bodies.

The appropriate decision maker for each FOI request will be identified within 7 calendar days of receipt of a request, when commencing document retrieval, with a recommendation made by Legal Services. This process is set out in the FOI processing matrix. Usually, the decision maker will be the SES employee most closely connected to the subject matter of the FOI request.

Decision makers are responsible, with support from Legal Services and line area employees, for:

- guiding the interpretation of FOI requests;
- being satisfied that reasonable searches for documents have been undertaken across the Commission;
- making key decisions in relation to FOI responses, including the identification of sensitivities contained within documents in scope and what exemptions may apply as a result; and
- making a decision on access to documents.

The [Guidelines issued by the Australian Information Commissioner](#) under section 93A of the FOI Act provide detailed support for decision makers in determining all aspects of FOI processing.

Legal Services

The Legal Services team is the primary contact for FOI applicants and interested third parties. The Legal Services team acts as a central coordinator and drives good administrative practice. They are also qualified to provide independent legal advice.

Legal Services team members, in consultation with the nominated decision maker and relevant line area employees, are responsible for decisions in relation to FOI processing, including:

- determining the validity of requests, and undertaking consultation processes with applicants as required;
- initial charges assessments;
- supporting the undertaking of reasonable searches across the Commission;
- communicating with the applicant about their request, and separately communicating with decision makers about timeframes and at key processing intervals;
- liaising between relevant areas of the Commission, the Senior Executive and, where required, the Minister's Office;

- making decisions to transfer FOI requests to other agencies, or accept transfer requests;
- supporting compliance with the FOI Act, including the monitoring of statutory timeframes;
- providing legal advice to decision makers on the application of the FOI Act to the request and documents within scope, including preparing:
 - o statements of reasons;
 - o schedules of documents; and
 - o redacted documents;
- making decisions in relation to informal and formal consultation processes, including communications with FOI applicants, other agencies and third parties;
- managing information access arrangements in conjunction with Corporate Group, including the publication of decisions on the Commission disclosure log; and
- managing all other request types available under the FOI Act, including internal review matters, and external reviews by the OAIC.

Processing FOI requests

The Commission coordinates all FOI matters through the central FOI@apsc.gov.au inbox.

Primary requests are actioned by:

1. Determining the validity and scope of the FOI request, initiating document retrieval and identifying responsible persons;
2. Considering identified documents, undertaking supplementary searches as required, and making key decisions as to the handling of the request (such as whether to consult with the applicant on scope, identifying third parties or other agencies requiring consultation or whether charges should be issued);
3. Coordinating and finalising consultations, undertaking reporting, the assessment and proposed redaction of relevant documents, and preparation of the statement of reasons in conjunction with the decision maker; and
4. Releasing a decision in response to FOI request.

The *Legal Services – FOI processing matrix* sets out below, in detail, key timeframes and responsibilities.

Processing requests for internal, or external review of FOI decisions

The FOI Act establishes mechanisms for applicants to seek review of primary FOI decisions, where they are dissatisfied. Internal review of decisions, undertaken by SES employees or General Counsel with support from Legal Services, is the first avenue available. Internal review requests are subject to a 30-day statutory timeframe, and are not subject to extension. The OAIC publishes [guidance](#) on internal review matters. Legal Services will closely support, and liaise regularly with nominated decision makers throughout processing.

External review matters, being where an applicant has sought review by the OAIC and/or made a complaint to the OAIC regarding FOI processing, are processed in accordance with deadlines established by the Information Commissioner (IC) review officer during the course of the matter. The OAIC publishes [guidance](#) on IC review processing, and [directions](#) on procedures for IC review matters. Legal Services will closely support, and liaise regularly with nominated decision makers throughout such matters.

Conflict of interest

The APS Code of Conduct requires employees to take reasonable steps to avoid any conflict of interest, real or apparent, in connection with their public duties.

A conflict of interest, real or apparent, occurs where there is a conflict between duties and interests that (could) improperly influence the performance of their duties. In serious cases, conflicts can result in an apprehension of bias and a decision being challenged on that basis.

Any conflict issues should be discussed with the Legal Services team, and a way forward determined. This might include disclosing and addressing any real or apparent conflict in a statement of reasons or having a different person making the decision.

Key Resources

- [Freedom of Information Act 1982](#)
- [Freedom of Information \(Charges\) Regulations 2019](#)
- [Australian Information Commissioner FOI Guidelines](#)
- [FOI Disclosure Log](#)



Legal Services – Freedom of Information

FOI processing matrix

Timeframes

Processing primary FOI requests

The FOI Act establishes a 30-day statutory timeframe for making a decision, subject to extension under certain circumstances (for example, where third party consultation is required). Key timeframes and responsibilities are set out below.

Note that all internal and external emails relating to FOI matters are to be sent from the FOI mailbox, and will copy in the FOI email address for record-keeping.

*In the table below, 'Days' refer to the standard 30-day processing period applicable to FOI processing under the FOI Act. Day 1 is [expressed](#) as the day after receipt of a valid request. Date ranges suggested below are indicative, and Legal Services will work closely with decision makers to ensure compliance with core statutory deadlines.

**The decision maker will usually be the SES employee most closely connected to the subject matter of the FOI request.

When	Who	What
Determining validity and scope of request; establishing responsible persons		
Days 1-5	Legal Services	<ul style="list-style-type: none"> - Establish validity and scope of request – initiate consultation with applicant if required - Send formal acknowledgement to applicant (must be actioned within 14 days – preferably immediately)
Days 1-7	Legal Services	<ul style="list-style-type: none"> - Identify the Legal Services team member with overall responsibility for the request; - Notify GM IPEP by email of new FOI matter; copying the Commissioners by email where

When	Who	What
		<p>matter is significant and/or sensitive</p> <ul style="list-style-type: none"> - Identify and consult with appropriate decision maker**, and email (copying in EA) to schedule meeting within 7 days to discuss request - Where appropriate decision maker is unclear, GM IPEP will put forward a nomination - Notify Media by email where matter is significant and/or sensitive - General Counsel to notify the Minister by email where matter is of a significant and/or sensitive nature, and/or includes information of the Minister
Document retrieval and assessment; initial consultations; prepare decision in relation to the request		
Days 2-8	Legal Services Decision maker Employees supporting document retrieval	<ul style="list-style-type: none"> - Email decision maker and, where known, line area contact officer (ordinarily Director) initiating document search and retrieval - Document retrieval to be completed within 7 calendar days relevant Group is notified unless otherwise agreed – this process will be overseen by line area contacts and the decision maker - Where scope of request may be too voluminous to process, or insufficiently clear, line area should raise concerns with legal services within 3 calendar days
Days 2-8	Legal Services Decision maker	<ul style="list-style-type: none"> - Legal services and decision maker to meet within 7 days of request receipt to discuss: <ul style="list-style-type: none"> • FOI processing

When	Who	What
		<ul style="list-style-type: none"> • key timeframes including release of decision • progress of document search and retrieval • whether charges should be imposed • whether document searches are likely to be required across other line areas, and • third party or document sensitivities where known/relevant
Days 2-14	Decision maker Line area contact	<ul style="list-style-type: none"> - Document search and retrieval process to be finalised - Documents to be provided to decision maker and legal services team as a clean (un-redacted) bundle, ideally scanned as a single PDF - decision maker and legal services meet to consider sensitivities within documents, and whether redactions and/or exemption claims may be required
Days 7-14	Legal Services	<ul style="list-style-type: none"> - Dependent on outcome of initial searches and discussions, legal services to consider and action, as appropriate the following: <ul style="list-style-type: none"> • initiate document searches across other line areas if required • contact applicant to clarify scope of request, or initiate a practical refusal consultation if required • whether charges should be imposed, and prepare notice if required,

When	Who	What
		<ul style="list-style-type: none"> • whether consultation with third parties, or other agencies is required • settle documents within scope and prepare schedule
<p>NOTE: Certain circumstances, including third party consultations, the issuing of charges and request consultation processes can pause or extend the statutory processing timeframes. Legal Services will provide advice on revised timings and any additional requirements to decision makers in such circumstances.</p>		
Days 11-18	Legal Services	<ul style="list-style-type: none"> - Prepare schedule of documents, and where necessary draft version of documents including applicable redactions - Initiate informal and formal consultations as required - Prepare decision letter, and draft statement of reasons - Notify decision maker, and where relevant the Commissioners of key activities or interim decisions
Days 14-21	Legal Services	<ul style="list-style-type: none"> - Coordinate and finalise informal and formal consultations - Legal services undertake QA and/or peer review of draft statement of reasons and documents
Finalising the request		
By day 21	Legal Services	<ul style="list-style-type: none"> - Provide draft statement of reasons, notes on consultation outcomes and draft statement of reasons to decision maker for consideration - Brief Commissioners on matter status at the FOI briefing, where matter is of a significant and/or sensitive nature. - For non-personal requests, provide status update in line with FOI briefings to the Minister's

When	Who	What
		Office where matter is of a significant and/or sensitive nature.
Day 21-24	Legal Services Decision maker	<ul style="list-style-type: none"> - Meet with the decision maker to settle: <ul style="list-style-type: none"> • consultation responses • decision • draft redactions to documents, where relevant • draft statement of reasons, where relevant - Legal services to finalise documents and submit to decision maker for final review and signature
Days 24-28	Decision maker	<ul style="list-style-type: none"> - Settle statement of reasons and decision - Where the matter is likely to attract media attention, work with APSC Strategic Communication and Engagement and the relevant line area to develop media talking points
By day 27 <i>(best practice – 2 business days before decision release)</i>	Legal Services	<ul style="list-style-type: none"> - Email for noting to Minister's office of FOI request outcome where matter is significant and/or sensitive - Email for noting to Commissioners of FOI request outcome (optional)
By day 30	Legal Services	<ul style="list-style-type: none"> - Notify FOI applicant of the decision (including disclosure of any documents)
On release of decision	Legal Services	<ul style="list-style-type: none"> - Email for noting to APSC Strategic Communication and Engagement, with talking points if required
By day 40	Legal Services Webmaster	<ul style="list-style-type: none"> - Consider and where appropriate update disclosure log



Australian Government
Australian Public Service Commission

<Applicant>

By email: <Email>

Our reference: <ShareHub reference>

Dear <Applicant>

Freedom of Information request

1. I am writing about your <date of request> Freedom of Information (FOI) request under the *Freedom of Information Act 1982* (the FOI Act) for access to documents held by the Australian Public Service Commission (the Commission).
2. The FOI Act and all other Commonwealth legislation referred to in this letter are publicly available from www.legislation.gov.au.

Documents relevant to your request

3. You requested access to documents in the following terms:

"Excerpt of request"

Decision on your FOI request

4. I am authorised under subsection 23(1) of the FOI Act to make FOI decisions.
5. <Provide background in a few paragraphs setting the stage why preliminary charges may be warranted.>

Preliminary Assessment of Charges

6. Under section 29 of the FOI Act and the *Freedom of Information (Charges) Regulations 2019* (the FOI Regulations), my preliminary assessment of the charge you are liable to pay is <amount including cents>.
7. The break-down of this charge is **Attachment A**.
8. Please note this preliminary assessment is based on an assessment of a random selection of 10% of the identified documents that may be relevant, which have been located through the Commission's preliminary document searches.
9. I have based my preliminary assessment on a number of factors, including that your request:
 - a) Provide factor;

b) Provide factor; and

c) Provide factor

10. I note that as provided under the FOI Regulations, the first 5 hours of decision-making time are free of charge. This reduction has been reflected in the charges estimate.

Action Required

11. You must notify the Commission in writing within 30 days of receiving this notice that you either:

- a) agree to pay the preliminary charge, noting that additional charges may apply for making a decision in relation to your request; or
- b) wish to contend that the charge has been wrongly assessed and/or should be reduced or not imposed; or
- c) withdraw your request.

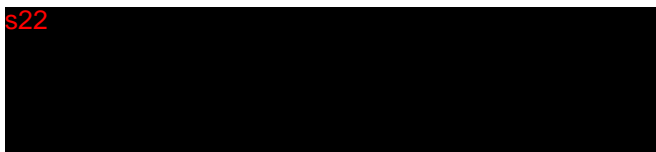
Further information on your options are set out below.

12. If you do not provide a response in accordance with one of the options listed above, within 30 days of receiving this notice, your request will be taken to have been withdrawn under subsection 29(2) of the FOI Act.

Option A - Pay the charge

13. As the charge exceeds \$25.00, a deposit of **<amount including cents>** (being 25% of the charge) is payable within 30 days of receiving this notice. You can pay the charge in full if you prefer.

14. The amount due should be paid by electronic funds transfer to:



15. Details for alternative payment methods are available on request.

Option B - Seek reduction or non-imposition of the charge

16. You may make submissions that the charge has been wrongly assessed or that the charge should be reduced or not imposed. Subsection 29(5) of the FOI Act provides that, in deciding whether to reduce or not to impose a charge, the decision-maker must take into account any relevant reasons, including whether payment of the charge, or part of it, would cause you financial hardship, and whether the giving of access to the documents is in the general public interest or in the interest of a substantial section of the public.

17. If you believe that the charge has been wrongly assessed or that the charge should be reduced or not imposed, please provide submissions which identify reasons and evidence in support of your view.

18. If you believe that payment of the charge would cause you financial hardship, please provide submissions which contain sufficient information about your financial circumstances.

Option C – Withdraw your request

19. If you alternatively wish to withdraw your request, you may do so in writing.

Time limits for processing your request

20. Section 31 of the FOI Act provides that where a notice is sent to an applicant regarding the payment of a charge in respect of a request, the time limit for processing the request is suspended from the date the notice is received until either:

- a) the day following payment of the charge (in full or the required deposit); or
- b) if applicable, the day following the notification to the applicant of a decision not to impose the charge.

Contacts

21. If you require any clarification of any of the matters in this letter you may contact the Commission's FOI Officer on ^{s22} [REDACTED] or by email at foi@apsc.gov.au.

Review rights

22. You are entitled to seek review of this decision. Your review rights are set out at **Attachment B**.

Yours sincerely

<Decision maker name>

Authorised FOI decision maker

<Date of decision>

Preliminary charges calculation

Basis for my preliminary assessment of charges

I have assessed the work that the Commission would need to do to process your request based on the initial document searches undertaken by the Commission and have calculated the following breakdown of charges:

Document estimate	
Number of relevant documents	x
Number of relevant pages	x

PROCESSING CHARGES		
Task	Time	Cost @ \$15 per hour
Search and retrieval of relevant electronic registry files	y hours	x
Search and retrieval of relevant pages in the file	y hours	x
Preparation of schedule of documents	y hours	x
A. Search and retrieval subtotal	y hours	x
Decision making	Time	Cost @ \$20 per hour
Examination of documents	y hours	x
Consultation with third parties	y hours	x
Preparation of documents for release	y hours	x
Preparation of notice of access decision	y hours	x
Decision making subtotal (before deduction of 5 hours)	y hours	x
B. Decision making sub-total (after deduction of first five hours)	y hours	x
ESTIMATED TOTALS AND DEPOSIT		
ESTIMATED TOTAL (total of A and B)		x
REQUIRED DEPOSIT		x

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (the FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. an internal review by an different officer of the Australian Public Service Commission; and/or
2. external review by the Australian Information Commissioner.

There are no fees applied to either review option.

Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be made in writing within 30 days of receiving this letter to:

Email: foi@apsc.gov.au
Post: The FOI Officer
 Australian Public Service Commission
 B Block, Treasury Building
 GPO Box 3176
 Parkes Place West
 PARKES ACT 2600

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original FOI decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (the OAIC) from the date you received this letter or any subsequent internal review decision.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au