



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts

FOI request 26-401

June 2026

Current processing times for FOI requests
(data based on requests finalised during the month of May 2026)

Number of Days clock running	Total requests finalised within days specified *
9	1
16	1
17	1
21	1
23	1
25	1
27	2
30	1
32	2
35	1
41	1
44	1
45	2
48	1
58	1
60	3
62	2
64	1
65	1
67	1
69	1
73	2
74	1
79	1
Total requests finalised in May 2026	31

* The 30-day statutory processing timeframe may be extended under several provisions of the FOI Act, including but not limited to sections 15AA (extension of time with agreement) and 15AB (extension of time for complex or voluminous requests), and section 15(6) (extension of processing period to comply with requirements of section 26A, 27 or 27A).

Average processing time for requests finalised in May 2026 **45 days**



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Regional Development, Communications and the Arts

Corporate Services - DRSNZ



FINANCE

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FINANCE

s22(1)(a)(ii)





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Regional Development, Communications and the Arts

Corporate Services - FBG



FINANCE

s22(1)(a)(ii)

[Redacted content]



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Corporate Services - FBG



FINANCE

s22(1)(a)(ii)

[Redacted content]



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Corporate Services - FBG



FINANCE

s22(1)(a)(ii)

[Redacted content]



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Corporate Services - FBG



FINANCE

s22(1)(a)(ii)

[Redacted content]



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Corporate Services - FBG



FINANCE

s22(1)(a)(ii)

[Redacted content]



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Corporate Services - IT

s22(1)(a)(ii)



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Regional Development, Communications and the Arts

Corporate Services - IT



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FINANCE

Corporate Services - LLLP

s22(1)(a)(ii)





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Corporate Services - PCC



FINANCE

s22(1)(a)(ii)

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Corporate Services - PCC



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Corporate Services - PCC



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Capability [select]	Functions [select]	Division	Branch	Section/Function/ Program	Is the function/prog ram ongoing? [select]	Category of Work [select]	Priority [select]	Recommend ation [select]	ASL Forecast Exit FTE 30 June	Proposed ASL for 2025-26	Min ASL required for 2025-26	ASL Variance	Risk of reducing/slowing/ceasing
Legal, Governance and Compliance	FOI administration	PCC	Government Services	FOI	Yes	Legislative & statutory requirements	Critical	Continue	5.1	7.0	7.0	-	Cease - Not possible - legislated requirement Slow - Not possible - Legislated timeframes Redesign - limited additional scope to do so - process dictated by legislation. Improvements have been made over the past 2.5 years to processes, including development of support material to assist self-service by Decision Makers and Action Officers. Further improvements, including training for SES and potential for proactive publication of documents, requires suitably resourced ASL to deliver. The Information publication Scheme has not been reviewed/updated by the Department since 2017, and an OAIC survey in 2022 identified a gap in this capability. An uplift in the IPS, which would include socialising proactive publication of material, can only be delivered with sufficient ASL resourcing. The impact of not maintaining compliance with the statutory requirements of the FOI Act includes an increase in workload together with greater scrutiny through Senate Estimates; the ANAO (noting that there is a current audit of our FOI function underway); and the OAIC, as the FOI National Regulator. This increased workload would include the need to routinely engage with OAIC on overdue requests to re-gain the power to lawfully make decisions on access where request has been deemed to have been refused, together with a high risk of an increase in complaints and requests for reviews to the OAIC and the ART, resulting in enquiries and requests for information from the OAIC which will require response and oversight with strong relevant technical capability to mitigate further risks to the Department, together with additional input from Legal Services to manage ART Reviews. Where the OAIC identifies potential systemic issues with an agency's compliance with its statutory FOI obligations, there is a risk of they will initiate an Own Motion investigation, which would create an excessive burden on existing resources within the Department to support and respond to that investigation, diverting resources from the BAU of managing the FOI function.

s22(1)(a)(ii)

Information Act 1982 by the Department of
Infrastructure, Transport, Regional Development, Communications, Sport and the Arts



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FOI request 26-401

July 2026

Part 2

The agency’s current staffing levels allocated to FOI processing functions, including full-time equivalent (FTE) figures and any changes to those figures in the period 1 July 2022 to the date of this request

Financial year 2025-26 – draft ASL report

Staff Detail - FY2025-26																
Refer to legend below																
Cost Centre	Cost Centre Name	Employee	APS Level	Actuals Jul-25	Actuals Aug-25	Actuals Sep-25	Actuals Oct-25	Forecast Nov-25	Forecast Dec-25	Forecast Jan-26	Forecast Feb-26	Forecast Mar-26	Forecast Apr-26	Forecast May-26	Forecast Jun-26	ASL
	PCC-GS-Freedom of Information															
31658	PCC-GS-Freedom of Information	s22(1)(a)(ii)	EL2	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
31658	PCC-GS-Freedom of Information		EL1	0.1	0.4	0.1	-	-								0.1
31658	PCC-GS-Freedom of Information		EL1	-	-	-	-	0.3	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.6
31658	PCC-GS-Freedom of Information		APS6	1.0	1.0	-	-	-				1.0	1.0	1.0	1.0	0.5
31658	PCC-GS-Freedom of Information		APS6	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
31658	PCC-GS-Freedom of Information		APS6	-	-	-	-	-				1.0	1.0	1.0	1.0	0.3
31658	PCC-GS-Freedom of Information		APS5	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
31658	PCC-GS-Freedom of Information		APS4	0.4	0.7	0.7	0.7	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.9
31658				4.5	4.1	3.8	3.7	4.3	5.0	5.0	5.0	7.0	7.0	7.0	7.0	5.27
Legend																
Vacant (known candidate)																

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Financial year 2024-25

Cost Centre PCC-GS-Freedom of Information & Minister (31658)
Fiscal Year 2025
Latest Data Update (MultiProvider) 08.07.2025 03:07:18

				Fiscal year/period	Period 01 2025	Period 02 2025	Period 03 2025	Period 04 2025	Period 05 2025	Period 06 2025	Period 07 2025	Period 08 2025	Period 09 2025	Period 10 2025	Period 11 2025	Period 12 2025	
Cost Centre (Emp)		Employee	Name	Pay Scale Group	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	
3000/31658	PCC-GS-Freedom of Information & Minister	s22(1)(a)(ii)	EL1	FOI & Ministerial Liaison	1.00	0.77	0.24										
3000/31658	PCC-GS-Freedom of Information & Minister		EL1	FOI & Ministerial Liaison		0.23											
3000/31658	PCC-GS-Freedom of Information & Minister		EL2	FOI & Ministerial Liaison	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	
3000/31658	PCC-GS-Freedom of Information & Minister		APS4	FOI & Ministerial Liaison											0.12	0.44	
3000/31658	PCC-GS-Freedom of Information & Minister		EL1	FOI & Ministerial Liaison												0.52	
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison		0.23								0.14	1.00	0.76	
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison	1.00	0.77	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.86		0.24	
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison											0.45	1.00	
3000/31658	PCC-GS-Freedom of Information & Minister		APS5	FOI & Ministerial Liaison	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.86	0.45	1.00	
3000/31658	PCC-GS-Freedom of Information & Minister		APS5	FOI & Ministerial Liaison										0.14	0.55		
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison								0.22					
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison	0.91	0.91	0.90	0.91	0.86	0.91	0.70	0.20					
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.86			
3000/31658	PCC-GS-Freedom of Information & Minister		EL1	FOI & Ministerial Liaison							1.00	0.78	1.00	0.19	0.48	0.08	0.37
3000/31658	PCC-GS-Freedom of Information & Minister		EL1	FOI & Ministerial Liaison								0.22					
3000/31658	PCC-GS-Freedom of Information & Minister		APS6	FOI & Ministerial Liaison											0.23	1.00	
3000/31658	PCC-GS-Freedom of Information & Minister		EL1	Ministerial Liaison								1.00	1.00	0.98	1.00	1.00	0.69
3000/31658	PCC-GS-Freedom of Information & Minister	Result			5.91	5.91	5.14	4.91	4.86	5.91	6.91	6.20	5.16	5.35	4.88	7.02	
Overall Result					5.91	5.91	5.14	4.91	4.86	5.91	6.91	6.20	5.16	5.35	4.88	7.02	

Financial year 2023-24

Cost Centre (31658)
Fiscal Year 2024
Latest Data Update (MultiProvider) 10.07.2024 03:04:51

				Fiscal year/period	Period 01 2024	Period 02 2024	Period 03 2024	Period 04 2024	Period 05 2024	Period 06 2024	Period 07 2024	Period 08 2024	Period 09 2024	Period 10 2024	Period 11 2024	Period 12 2024	
Cost Centre (Emp)		Employee	Name	Pay Scale Group	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	
3000/31658	LSD-Freedom of Information	s22(1)(a)(ii)	EL1	Freedom of Information	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.86	0.27	1.00	1.00
3000/31658	LSD-Freedom of Information		EL1	Freedom of Information										0.14	0.73		
3000/31658	LSD-Freedom of Information		EL2	Freedom of Information	1.00	0.48											
3000/31658	LSD-Freedom of Information		EL2	Freedom of Information		0.52	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
3000/31658	LSD-Freedom of Information		APS4	Freedom of Information	1.00	1.00	0.52										
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information			0.48	1.00	0.91								
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information								0.57	1.00	1.00	1.00	1.00	1.00
3000/31658	LSD-Freedom of Information		APS5	Freedom of Information									0.57	1.00	1.00	1.00	1.00
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information	0.50	0.50	0.38										
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information								0.13	0.90	0.90	0.91	0.87	0.90
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information										0.14	0.09		
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information											0.59		
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information										0.43			
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information											0.32	1.00	1.00
3000/31658	LSD-Freedom of Information		APS6	Freedom of Information	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.43			
3000/31658	LSD-Freedom of Information		EL1	Freedom of Information		0.74	1.00	0.05									
3000/31658	LSD-Freedom of Information	Result			4.50	5.24	5.38	4.05	3.91	3.00	3.70	5.48	5.90	5.91	5.87	5.90	
Overall Result					4.50	5.24	5.38	4.05	3.91	3.00	3.70	5.48	5.90	5.91	5.87	5.90	

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Financial year 2022-23

Cost Centre FGBBS-AIR-Freedom of Information (31658)
Fiscal Year 2023
Latest Data Update (MultiProvider) 27.07.2023 03:26:25

					ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	ASL (Actual)	
Cost Centre (Emp)		Employee Name	Company code (Emp)	Pay Scale Group Posting period	July	August	September	October	November	December	January	February	March	April	May	June	
3000/31658	FGBBS-AIR-Freedom of Information	s22(1)(a)(ii)	3000	Infrastructure - Dept EL1											0.87	1.00	
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept EL2					0.36	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS4												0.52	1.00
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS6				0.05	1.00	0.41	1.00	1.00	1.00	1.00	1.00	0.65	
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS6		0.57	0.65	0.55	0.29								
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept EL1		1.00	1.00	1.00	1.00	1.00	0.23						
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS6		1.00	0.93	0.48	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.83	0.50
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS6													0.91
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS5		1.00	0.95	0.90	0.90	0.63							
3000/31658	FGBBS-AIR-Freedom of Information		3000	Infrastructure - Dept APS4										0.43	1.00	0.48	
3000/31658	FGBBS-AIR-Freedom of Information	Result			3.57	3.54	2.93	2.73	3.49	2.14	2.50	2.50	2.93	3.50	4.35	4.41	
Overall Result					3.57	3.54	2.93	2.73	3.49	2.14	2.50	2.50	2.93	3.50	4.35	4.41	

Part 3

The average or median processing time for FOI requests at this agency, for the period 1 July 2022 to the date of this request

FY	Average days clock running on requests finalised in specified Financial Year
2022-23	34.44 days
2023-24	43.63 days
2024-25	41.94 days
2025-26	41.51 days

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s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Wednesday, 6 December 2023 2:27 PM
To: BURKE, Chris
Cc: BOWD, Reuben
Subject: Business case to increase FOI Section staffing from a total of 5 to a total of 6 (increase of 1 FOI Case Officer) [SEC=OFFICIAL]

OFFICIAL

Good afternoon Chris

As discussed, the Department's FOI function has seen a consistently upwards trend in the number of FOI requests being received and managed by it since 1 July 2022 – refer Table and Chart below.

This is clearly demonstrated by the average number of requests received in the past 18 months:

- | | |
|---|-----------------------|
| • The number of FOI requests received in the 2022-23 financial year | average: 26 per month |
| • The number of FOI requests received in the period July-November 2022 | average: 20 per month |
| • The number of FOI requests received in comparable period July-November 2023 | average: 46 per month |
| • The number of FOI requests received calendar year 2023 to date | average: 39 per month |

A review of the FOI function at the Department of Health ^{s42} in 2021, using the Department of Agriculture as a reference point, suggested that the optimal staffing resources required to manage an FOI function with a profile of predominantly non-personal information requests should consist of FOI Case Officers taking carriage of between 10-12 FOI requests at any given time, along with appropriate administrative and EL support. This recommended staffing footprint would enable an agency to ensure compliance with statutory timeframes, and also provide effective management of external reviews by the Information Commissioner and the development and delivery of capability uplift and maintenance across the department, including delivery of training and development of support material.

This Department's FOI function is currently supported by an approved ASL of 5 (2 x FOI Case Officers, 1 x FOI Administrative Support Officer (ASO), 1 x Assistant Director (EL1) and 1 x Director (EL2)). In the past five months the team has managed an active case-load averaging 46 cases – we currently have 42 active FOI requests on hand. This has required the FOI ASO, the Assistant Director and the Director to all take on responsibility for directly managing the general case-load on hand. This has diminished our ability to develop and deliver training resources for Decision Makers and Action Officers within business areas and to develop support materials, both of which are critical to ensuring the Department as a whole has an optimised delivery of its statutory obligations under the FOI Act.

The risks associated with the staffing footprint remaining at the status quo against the increased operating tempo is that the Department will fail to maintain compliance with the statutory timeframes associated with FOI requests. This has been demonstrated in the past three months with a number of requests falling outside statutory timeframes. In addition, we are unable to proactively address the aged Information Commissioner caseload and the capability of the department to address FOI requests will not be enhanced and supported effectively. Of concern, there are also WHS risks associated with staff burn-out and stress and/or further turnover as a result of that, resulting in a de-stabilised workplace environment.

Approval sought:

I am seeking approval to create an additional APS6 FOI Case Officer position within the FOI Section, increasing the FOI Section's staffing footprint to a total of 6 ASL (1 x FOI ASO, 3 x FOI Case Officers, 1 x AD and 1 x Director.).

We currently have active recruitment underway to fill our vacant APS5 FOI ASO and our vacant APS6 FOI Case Officer. Through the APS6 recruitment process, we have three candidates who, subject to referee checks and delegate

approval, have been found suitable. Our increased staffing profile should be achieved by recruiting two FOI Case Officers from the current open recruitment process.

If you require any further information or have any further queries, please let me know.

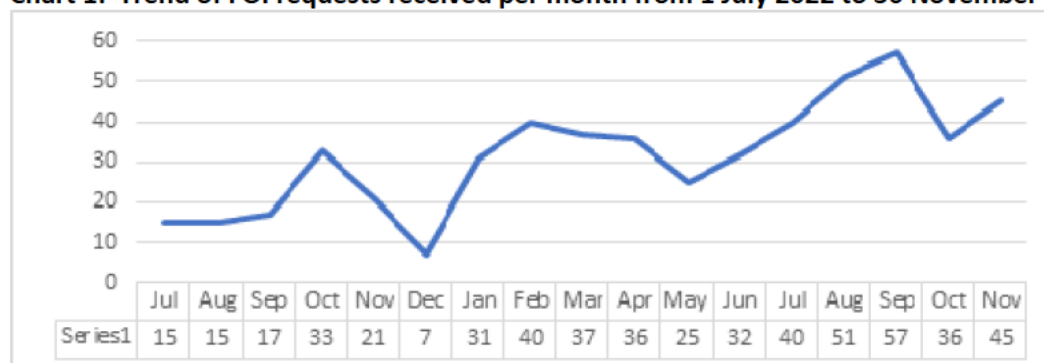
Table 1: Total requests received since 1 July 2020:

	Department	Portfolio Ministers	Classification Board	Total	Comparison with previous year
2020-21	220	28	1	249	
2021-22	215	16	16	247	↓ 2 (-1%)
2022-23	254	26	34	314	↑ 67 (21%)
2023-24 (to 30 Nov)	135	29	20	187*	↑ 86 (22%)**

*using the calendar year average of 39 per month this is projected to be in excess of 400 for the 2023-24 financial year.

** based on the projected total of in excess of 400 requests received this financial year.

Chart 1: Trend of FOI requests received per month from 1 July 2022 to 30 November 2023:



With kind regards

s22(1)(a)(ii)

Director • Freedom of Information and Privacy Section

Legal Services Division

E s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

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GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

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I would like to acknowledge the traditional custodians of this land on which we meet, work and live.

I recognise and respect their continuing connection to the land, waters and communities.

I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.

OFFICIAL

s22(1)(a)(ii)

From: Houghton, Rachel
Sent: Thursday, 6 March 2025 5:41 PM
To: Feros, Kate; s22(1)(a)(ii)
Subject: RE: FOI resourcing constraints [SEC=OFFICIAL]

OFFICIAL

Thanks for sharing this Kate.

s22(1)(a)(ii) - please note – there is no expectation that you will move heaven and earth to maintain the FOI compliance rate. We know you're doing everything you can to keep managing this function professionally despite the staffing issues, however I want to assure you that we understand there will be an impact associated with not having the necessary staffing in place.

Also, Kate will no doubt chat to you about an opportunity that has presented today for cross-divisional support once Caretaker commences. This might be an option to address the range of priorities you're currently managing and any backlogs that are created over the next week or so.

Thanks for letting us know about this s22(1)(a)(ii), and enjoy your long weekend.

Rachel

Rachel Houghton
 Chief People Officer
Rachel.houghton@infrastructure.gov.au
 M +61 s22(1)(a)(ii)
 GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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*I acknowledge the traditional custodians of this land on which we meet, work and live.
 I recognise and respect their continuing connection to the land, waters and communities.
 I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islander people.*

OFFICIAL

From: Feros, Kate <Kate.Feros@infrastructure.gov.au>
Sent: Thursday, 6 March 2025 5:32 PM
To: s22(1)(a)(ii) <s22(1)(a)(ii)@infrastructure.gov.au>
Cc: Houghton, Rachel <rachel.houghton@infrastructure.gov.au>
Subject: RE: FOI resourcing constraints [SEC=OFFICIAL]

OFFICIAL

Thanks §22(1)(a)(ii)

I understand this is a difficult and stressful situation to be in – we are doing everything we can to provide support to you and the team.

There's not a lot we can do to speed up the recruitment process or the contract with Sparke Helmore I'm afraid. I am aware that this will impact on both compliance rates and the forward management of incoming cases.

While we are waiting on approval/paperwork for §22(1)(a)(ii) to commence as ASO, would it be helpful for me to re-assign §22(1)(a)(ii) from CCU into that role next week (she works Monday to Wed)? Or would this cause more disruption that it's worth?

Thanks and I hope you switch off and have a restful long weekend – you deserve it.

Thanks
Kate

OFFICIAL

From: §22(1)(a)(ii) <§22(1)(a)(ii)@infrastructure.gov.au>
Sent: Thursday, 6 March 2025 5:21 PM
To: Feros, Kate <Kate.Feros@infrastructure.gov.au>
Subject: FOI resourcing constraints [SEC=OFFICIAL]

OFFICIAL

Hi Kate

I wanted to give you an update on the current staffing footprint in the FOI team.

Our current footprint includes myself, §22(1)(a)(ii) as our admin support, and §22(1)(a)(ii) and §22(1)(a)(ii) as the two FOI Case Officers.

As you are aware, recent and upcoming events will impact the FOI team's capacity:

- Case Officer, §22(1)(a)(ii) transferred out of the Department on Friday 7 February, and we currently have a vacant APS6 position.
- Assistant Director, §22(1)(a)(ii), has been unwell since Monday 3 February.
- §22(1)(a)(ii) commences 3 weeks of leave next Thursday, 13 March
- §22(1)(a)(ii) finishes with us next Friday, 14 March, resulting in a 2nd vacant APS6 position.
- §22(1)(a)(ii) has also commenced studies which involves him taking 7 hours study leave per week.

Looking forward:

- I have no firm indication of when §22(1)(a)(ii) will return. §47F
 - I have today asked §47F to provide evidence so we can enter §47F PCL into the system §47F
 - §47F
 - §47F has today provided me with §47F medical certificates, and I will lodge these with payroll and have the leave entered into the system.
 - §47F
- A proposal for temporary cover for our admin support during §22(1)(a)(ii) leave is with Maree for approval.

- We have followed up with s22(1)(a)(ii) who has advised that Maree is travelling and will not have a chance to review/approve today
- If/once it is approved, we need to initiate an updated Work Order, obtain signature from the service provider, and get approval through the procurement system
- The original plan was for cover to commence on Tuesday so s22(1)(a)(ii) and s22(1)(a)(ii) could spend 2-days of handover/training.
- It is looking increasingly likely that s22(1)(a)(ii) will not be able to start before s22(1)(a)(ii) leave commences next Thursday.
- The recruitment process for the APS6 FOI Case Officers stalled, as s22(1)(a)(ii) was the Chair.
 - As of last Monday, I instructed Recruitment to replace me as the Chair.
 - Shortlisting then took place on Wednesday last week, candidates were advised of shortlisting on Thursday.
 - Interviews took place yesterday.
 - s22(1)(a)(ii) is going to undertake referee checks (by next Friday) and I will be writing the Selection Report (by next Friday).
 - Once the Selection Report has been finalised, it will need to progress through the approval process, up to Maree before any offers can be made.
 - Commencement dates will be subject to acceptance of offers, notice periods and on-boarding requirements being completed.
- The Legal Practice Management team has taken the lead on obtaining a quote from Sparke Helmore for temporary case management cover.
 - Legal has asked Sparkes for the quote by COB tomorrow.
 - Once we have the quote, approval needs to be obtained for the expenditure/engagement
 - It is unlikely this arrangement will be in place by next Friday, as was originally planned.

As such, effective Monday 17 March 2025, the FOI team, as it currently stands, will consist of s22(1)(a)(ii) as an APS6 FOI Case Officer, and myself, with the potential for s22(1)(a)(ii) to have returned to work.

I also have a number of large tasks sitting with me in the DLO space, including:

- the preparation of an ELT Paper,
- preparation and establishment of the EOI process
- supporting the DLO's once caretaker commences
- overseeing the review of Ministerial Travel arrangements

For your situational awareness.

With kind regards

s22(1)(a)(ii)

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*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
 I recognise and respect their continuing connection to the land, waters and communities.
 I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Monday, 17 November 2025 4:26 PM
To: Feros, Kate; BURKE, Andrew
Subject: SEEKING APPROVAL to request a quote for re-engagement of Sparke Helmore to assist with FOI processing

Good afternoon Kate/Andrew

Noting the upcoming re-structure, and consequential move of the FOI Section to Andrew's Branch, I am writing to you both to seek agreement for the engagement of Sparke Helmore to assist with FOI processing.

The business need for this arises as a result of 2 x APS6 FOI Case Officer positions being vacant in the Section. Recent external recruitment processes failed to secure suitable candidates, and I propose re-advertising the positions in the New Year.

The arrangement with Sparkes Helmore will be required to ensure we can maintain compliance with the Department's statutory obligations under the FOI Act whilst we undertake a recruitment process to secure ongoing APS6 FOI Case Officers.

Business case

- ELT has approved an ASL of 7 for the FOI Section (currently budgeted as 1 x EL2, 2 x EL1s, 2 x APS6, 1 x APS5, 1 x APS4).
- The professionally accepted staffing formula for FOI work is 10-12 cases per FOI case officer.
 - o This standard was developed ^{s42} in 2021, based on a predominantly non-personal caseload, and excludes administrative and EL support.
 - This allows a team to comply with statutory timeframes, which provides the lawful authority to make decisions.
 - It also allows a team to manage external reviews by the OAIC, as well as other more strategic work (which is done by EL staff).
 - Ensures effective administrative support to streamlines the process for case managers and delegated decision makers in the department.
 - o As a result of staff departures over the past 9 months and recruitment controls within the department, we have tried the re-deployment of existing Departmental staff to vacant roles, but this was unsuccessful due to the technical requirements of the roles.
- We currently have 1 x APS5 FOI Case Officer who manages the routine non-personal requests.
- We have 2 vacant APS6 FOI Case Officer positions.
- Complex FOI requests are currently being processed by the FOI Director and an EL1, recently promoted internally.
 - o The Director and the existing EL1 are also managing the FOI review caseload.
 - o A second EL1 will be commencing with us on Monday 24 November 2025.
- The Department has, in FY 25/26 to date, had on hand an average of 43 FOI requests per month.
 - o This is consistent with the FY24/25 average of 44 FOI cases on hand per month.
 - By comparison, PM&C has 5 FOI case officers managing an average of 30 FOI requests per month; and
 - Department of Health has a total of 9 FOI case officers managing an average of 50 FOI requests per month

Scope of work

To assist us in processing these requests, the work that will be required to be undertaken by Sparke Helmore in relation to FOI requests is as follows:

- Collating documents identified as relevant by the business area (including converting to pdf format where necessary, and applying document numbering to the relevant documents)

- Reviewing a schedule of documents provided by the business area, and identifying documents requiring either affected third party formal consultation or informal courtesy consultation
- Undertaking third party consultation as required, including receiving and assessing third party submissions
- Liaising with the Department's business area Action Officer to confirm exempt material
- Preparing marked up versions of the documents for review by the decision maker
- Drafting a decision on access (utilising the Department's decision template) for consideration by the decision maker
- Providing a draft decision pack to the FOI Section for clearance and provision to the decision maker to finalise

Other information

The relevant personnel within Sparke Helmore will liaise regularly with the Department's FOI Director and/or Assistant Directors to maintain departmental visibility over the status of these requests, and we anticipate this will be by way of daily stand-ups. This will also enable the Director and/or Assistant Directors to provide guidance and support to Sparke Helmore as required.

The Department's FOI Admin Support Officer will work closely with the Sparke Helmore team in relation to the maintenance of data in the Department's case management system, and will be responsible for filing records created by Sparke Helmore in the Department's record keeping system.

It is anticipated that the relevant documents captured by these FOI requests will be Official Use Only and will not be classified.

Timeframe:

- We propose that the arrangement commence by **no later than Monday 8 December 2025**.
- We anticipate that we will require the support **until at least 30 March 2026** – noting this will depend on recruitment timeframes in the New Year.

I am therefore seeking your approval to approach the Legal Support Unit to request a quote for service from Sparke Helmore for this work.

With kind regards

s22(1)(a)(ii)

Director • Freedom of Information Section

Government Services Branch

Enabling Services Division

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I would like to acknowledge the traditional custodians of this land on which we meet, work and live.

I recognise and respect their continuing connection to the land, waters and communities.

I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts

FOI Processing Framework

Document Owner: Legal and Integrity Division

Version: 2.0

Effective Date: 14 April 2026

Endorsed by: Christie McClure, Chief Counsel

Released under the Freedom of Information Act 1982 by the Department of
Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

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Part A: Introduction

1 Purpose

- 1.1 The *Freedom of Information Act 1982* (**FOI Act**) provides a legal framework and legally enforceable right for any person to obtain access to certain documents held by Commonwealth agencies and Ministers (subject to exceptions).
- 1.2 This FOI Processing Framework (**Framework**) is a resource to support the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**the Department**), and the portfolio entities that it supports administratively in relation to FOI requests, in meeting obligations under the FOI Act. The Framework outlines the Department's approach for dealing with requests for access to documents, including by:
- (a) identifying roles and responsibilities of staff; and
 - (b) setting out procedures for processing FOI requests.

2 Application

- 2.1 This Framework applies to and should be followed by all staff and contractors (both ongoing and non-ongoing) within the Department.
- 2.2 Subject to the modifications set out in relevant Annexures, the Framework may also be referenced and used as a guide:
- (a) by Ministers and agencies within the Department's portfolio in relating to processing requests they receive; and
 - (b) by the Department when assisting portfolio Ministers and agencies in relation to FOI requests.

3 Using this Framework

- 3.1 This Framework should be applied in conjunction with:
- (a) the provisions of the FOI Act and the *Freedom of Information (Charges) Regulations 1982* (**Charges Regulations**);
 - (b) guidelines issued by the Australian Information Commissioner (**Information Commissioner or IC**) under section 93A of the FOI Act (**FOI Guidelines**);
 - (c) guidance material and resources published by the Office of the Australian Information Commissioner (**OAIC**) on the OAIC's website; and
 - (d) FOI resources published on the Department's FOI intranet page.

- 3.2 Exceptions to and deviations from adherence to this Framework in relation to the processing of particular FOI requests will be handled on a case by case basis, as determined by the FOI Section.

Part B: Terms used in this Framework

Term	Definition
Action Officer	A member of staff within the Responsible Business Area who is nominated by the Decision Maker to assist with the processing of an FOI request.
Affected Third Party	The following types of third parties with whom formal third party consultation should be carried out: (a) a State/Territory government or government authority; (b) a person or organisation whose business information is contained in a document; (c) an individual whose personal information is contained in a document; or (d) a foreign government, foreign government authority or international organisation. Note: While third party consultation requirements also apply to foreign governments and international organisations, they do not have review rights in relation to access decisions.
Affected Third Party Consultation	Formal consultation under the FOI Act with an Affected Third Party. Note: The statutory timeframe for processing an FOI request is extended by 30 days for formal third party consultation.
Applicant	A person who submits a request for access to documents under the FOI Act.
Charges notice	A written notice issued to an Applicant by an agency or Minister under section 29(1) of the FOI Act, which notifies the Applicant that they are liable to pay a charge for processing their request, and provides a preliminary assessment of the amount of charge.
Decision Maker	In relation to FOI requests received by the Department: (a) the Secretary (as principal officer) of the Department; or (b) an officer who is authorised by the Secretary under section 23 of the FOI Act to make decisions in respect of a request made under that Act. Note: The Decision Maker for an FOI request made to a Minister will be that Minister, or a senior member of the Minister's staff who is authorised to make a decision on the Minister's behalf.

Term	Definition
Deemed refusal decision	If a decision for an FOI request is not issued within the statutory timeframe, a decision refusing access to the requested documents is taken to have been made personally by the agency head (e.g. Secretary) or Minister.
Disclosure log	A published list of documents released by the Department or Minister under the FOI Act. The Department's disclosure log is located on its website: Freedom of Information Disclosure Log.
Document	The term 'document' is very broadly defined in section 4 of the FOI Act, covering a wide range of material. Essentially, it can cover almost anything in a recorded form, including: (a) paper / hard copy documents (whether typed, hand-written, formal or informal); (b) digital and electronically stored records, which could include for example: (i) information in electronic databases; (ii) online conversations (e.g. Skype, Teams, Webex messaging); (iii) text and app messages on mobile/smartphones and other electronic devices; (iv) information stored on computer tapes, disks, DVDs, portable hard drives and devices, computer servers and back-up tapes; (c) video footage (e.g. CCTV, recordings of Skype/Teams/Webex meetings); (d) audio recordings (e.g. voicemail messages); and (e) duplicates, drafts, different versions and copies of documents. Note 1: It does <u>not</u> include material maintained for reference purposes that is otherwise publicly available, or Cabinet notebooks. See clause 17 of this Framework for additional types of documents that are not subject to the FOI Act. Note 2: An FOI request can be made to an agency for a 'document of an agency'. An FOI request can be made to a Minister for an 'official document of a Minister'.

Term	Definition
Document of an agency	A document that: (a) is in the possession of an agency (including documents created outside the agency and subsequently received by the agency); and (b) documents held by a contracted service provider in relation to the performance of a Commonwealth contract (but not the entry into the contract itself). Note: See clause 17 of this Framework for excluded types of documents.
Exempt document	A document: (a) to which an exemption or conditional exemption provision under the FOI Act applies; or (b) in respect of which an agency, body or person is exempt from the operation of the FOI Act (see section 7); or (c) an official document of a Minister that contains information that does not relate to the affairs of a Commonwealth department or agency.
FOI Case Officer	A member of the FOI Section who has FOI cases allocated to them for processing.
FOI request	An application for access to documents that complies with the requirements of section 15(1) the FOI Act.
IC reviewable decision	The following kinds of decisions under the FOI Act: (a) access refusal decisions; (b) access grant decisions; (c) internal review decisions made by an agency in relation to an access grant or refusal decision; (d) a decision refusing to allow a further period of time for making an application for internal review of an access refusal decision.
Information Commissioner (IC) Review	A review of an IC reviewable decision undertaken by the Information Commissioner.

Term	Definition
Inter-agency consultation	Consultation with another Commonwealth agency or Minister in relation to documents relevant to an FOI request. Note: <i>There is no extension to the statutory processing timeframe for inter-agency consultation.</i>
Internal Reviewer	A Decision Maker nominated to conduct an internal review of an FOI decision who is preferably more senior to, or at least the same level as, the original Decision Maker.
Official document of a Minister	A document that: (a) is in the possession of a Minister, in their capacity as a Minister; and (b) relates to the affairs of a Commonwealth department or agency. The term 'relates to the affairs of an agency' broadly covers documents relating to matters within a Minister's portfolio responsibility, or the business or activities of an agency (having regard to the document content and context of its creation). This does <u>not</u> include: (a) personal documents of a Minister or the Minister's staff; (b) documents of a party-political nature; and (c) documents held in the Minister's capacity as a local member of parliament which do not deal with matters within the Minister's portfolio responsibility. Note: <i>See also clause 17 of this Framework for excluded types of documents.</i>
Personal information	As defined in the <i>Privacy Act 1988 (Privacy Act)</i>, meaning information about an identified or reasonably identifiable individual: (a) whether the information or opinion is true or not; and (b) whether the information or opinion is recorded in a material form or not. Note 1: <i>An 'individual' is a natural person, and does not cover organisations.</i> Note 2: <i>For the purposes of the FOI Act, personal information extends to deceased individuals.</i>

Term	Definition
Practical refusal reason	As defined in section 24AA of the FOI Act. In essence, where: (a) the processing work would amount to a substantial and unreasonable diversion of resources (e.g. the request covers a significantly large number of documents, or is otherwise too big to reasonably process); or (b) the request does not provide sufficient information to enable relevant documents to be identified (i.e. scope is too vague). Note 1: Whether a practical refusal reason exists is a question of fact to be assessed and determined on a case by case basis for each individual request. Note 2: A request consultation process must be undertaken before an FOI request can be refused on practical refusal reason grounds.
Responsible business area	The line area within the Department who holds or controls the documents, or the majority of the documents, and who has subject matter expertise in relation to the documents captured by an FOI request.
Responsible Minister	The Minister with portfolio responsibility for the subject matter captured by the documents relevant to an FOI request.
Sensitive Issue request	An FOI request that concerns a high-profile subject matter or involves national security, sensitive cabinet or deliberative material, or market-sensitive material. Note 1: Where it is not immediately clear that a request is a Sensitive Issue request, the Decision Maker must advise the FOI Section that the request is to be regarded as a Sensitive Issue. Note 2: Sensitive Issue requests are subject to stakeholder notifications.

Part C: Roles and Responsibilities

4 Authorisations

- 4.1 Decisions under the FOI Act and Charges Regulations in relation to requests made to the Department can only be made by:
- (a) the Secretary; or
 - (b) officers authorised by the Secretary under the FOI Act.
- 4.2 Under the Secretary's current Instrument of Authorisation:
- (a) all SES officers and the EL2 officer responsible for managing the FOI function within the Department are authorised to make decisions in relation to FOI requests; and
 - (b) any EL1 officer within the FOI Section of the Department are authorised to issue charges notices under section 29(1), and make charges decisions under section 29(4).

5 General requirements

- 5.1 When performing FOI functions and activities, staff:
- (a) should consider and (as far as practicable) facilitate administrative release of documents outside formal FOI processes;
 - (b) must have regard to the objects of the FOI Act and the Information Commissioner's FOI Guidelines; and
 - (c) should:
 - (i) comply with the Department's Records Management framework, including obligations under the *Archives Act 1983* (**Archives Act**); and
 - (ii) ensure they make and retain appropriate records of the FOI process and related tasks undertaken. This is also important in the event a decision becomes subject to internal and/or external (i.e. Information Commissioner or ART) review.

6 Staff roles and responsibilities

- 6.1 The table below provides a summary of the roles and responsibilities of departmental staff in relation to processing FOI requests.
- 6.2 More detailed information and instructions for specific officers and business areas are set out:
- (a) in the procedures outlined in this Framework;
 - (b) the FOI Processing Workflow; and
 - (c) in other FOI resources and instructions provided by the FOI Section in relation to particular requests.

Personnel	Responsibilities
All staff	- Ensure information and records are properly maintained in accordance with the Department's Records Management framework, including Archives Act requirements, so that documents relevant to an FOI request are able to be identified and retrieved in an accurate and timely manner. - Assist Decision Makers, Action Officers and the FOI Section / Case Officers where requested to do so in relation to an FOI request. - Keep accurate and contemporaneous records of time spent working on an FOI request.
Decision Makers	- Overall responsibility for ensuring that FOI requests allocated to the Decision Maker are processed in accordance with the FOI Act, and decisions on access are made within applicable statutory timeframes. - Appoint an Action Officer for a request and oversee their compliance with FOI processing requirements. - Ensure document search and retrieval is properly carried out. - Identify document sensitivities, legal issues, third party and inter-agency consultation requirements and other stakeholder engagement in a timely manner, to ensure consultation is undertaken within the statutory timeframes. - Assist the FOI Section to ensure notification of requests and decisions are directed to relevant stakeholders (which may include Ministers, internal business areas and external agencies / organisations). - Escalate visibility of requests regarded as Sensitive Issue requests to First Assistant Secretary, Deputy Secretary, Secretary and Ministers' Offices, where appropriate. - Ensure any relevant media talking points are prepared and/or additional briefings provided to Executives and/or Minister's office where appropriate.

Action Officers

- Assist the Decision Maker and FOI Section / Case Officers to process requests within statutory timeframes.
- Undertake document search and retrieval and prepare a Schedule of Documents.
- Assist the Decision Maker to identify document sensitivities, third party and inter-agency consultation requirements and other stakeholder engagement.

FOI Section / Case Officers

- Overall responsibility for managing the Department's FOI requests, internal reviews, and IC reviews, including:
 - identifying the Responsible Business Area, and confirming the Decision Maker and Action Officer, for a request;
 - monitoring progress and compliance with statutory timeframes, including sending reminders to Decision Makers and Action Officers and escalating outstanding actions as appropriate; and
 - managing extensions of time requests, and general enquiries from both Applicants and stakeholders.
- Determine the validity of, and register, FOI requests and where necessary, liaising with the Applicant to clarify the scope of the request and assisting the Applicant to make a valid request.
- Notify the designated Legal Services of all Sensitive Issue requests, IC and ART review applications and FOI complaints.
- Manage the transfer of requests between entities in accordance with section 16 of the FOI Act.
- Issue formal acknowledgement of a FOI request to the Applicant.
- Make decisions in relation to charges, in consultation with the Decision Maker (only officers authorised by the Secretary under the FOI Act).
- Assist and provide advice to Decision Makers and Action Officers to ensure the request is finalised within statutory timeframes.
- Issue stakeholder notifications relating to requests received and decisions made, where required.
- Undertake and manage communications with the Applicant, and any Affected Third Party and inter-agency consultations.
- Prepare draft access decisions and documents for release.

- Issue final decisions to Applicants and, where necessary, Affected Third Parties.
- Facilitate the publication of documents on, and maintaining, the Department's disclosure log.
- Undertake FOI reporting obligations, including the lodgment of quarterly statistics and Annual Return with the OAIC and the Department's Annual Report.

7 Legal Support

7.1 Legal Services within the Legal and Integrity Division, supports the Department's FOI functions and Decision Makers through the provision of legal advice where required. This may include:

- (a) advising on the application of FOI exemptions to documents; and
- (b) reviewing draft decisions and document redactions

Legal advice referrals

7.2 Requests for legal advice on FOI matters should be:

- (a) directed to the FOI Section in the first instance; and
- (b) referred by the FOI Section to the designated Legal Services contact.

Notification of FOI matters to Legal Services

7.3 The designated Legal Services contact should also be notified of:

- (a) all Sensitive Issue requests at the time they are received, or as soon as they are identified as a Sensitive Issue request;
- (b) all IC review and ART matters; and
- (c) all FOI complaints.

Legal review of draft FOI decisions and OAIC submissions

7.4 Legal Services:

- (a) may review draft decisions relating to Sensitive Issue requests (and other requests), where appropriate; and
- (b) will review all draft IC review submissions.

- 7.5 The FOI Section and Case Officers should ensure that the following are provided to the designated Legal Services contact for review (and within sufficient time, taking into account applicable statutory or OAIC specified timeframes) prior to finalisation:
- (a) Draft decisions for all Sensitive Issue requests (and any relevant documents with any proposed marked redactions);
 - (b) All draft internal review decisions; and
 - (c) All draft IC review submissions.

ART litigation

- 7.6 Legal Services will manage all ART reviews relating to FOI matters.

8 Escalation of FOI processing issues

- 8.1 In the event of any FOI processing issues that are unable to be resolved between the FOI Section and the Relevant Business Area:
- (a) the FOI Section should refer the matter to the SES officer responsible for the Department's FOI function; and
 - (b) the SES officer will engage with the Relevant Business Area to resolve the issue.

Part D: Overview of FOI Framework

9 Administrative release (outside the FOI Act)

- 9.1 Documents and information should be released informally through administrative access arrangements (i.e. outside the formal FOI process) wherever possible.
- 9.2 If documents can be released administratively, this should be discussed with the Applicant and written confirmation of the withdrawal of their FOI request (or relevant part of their request) should be obtained.

10 FOI release

- 10.1 FOI release is a formal release of documents in response to a request made under the FOI Act.
- 10.2 Documents released under the FOI Act:
- (a) must be accompanied by a decision on access which must include a statement of reasons; and
 - (b) are required to be published on the disclosure log (subject to certain exceptions).

11 Performing FOI functions – FOI principles and relevant guidelines

11.1 When performing FOI functions and exercising powers under the FOI Act, all agencies, Ministers and their staff must have regard to:

- (a) the Information Commissioner's FOI Guidelines; and
- (b) the objects of the FOI Act (set out in sections 3 and 3A of the FOI Act), which include:
 - (i) giving the Australian community access to information held by government, by requiring agencies to publish (certain) information, and providing for a right of access to documents;
 - (ii) increasing:
 - (A) public participation in Government processes, with a view to promoting better-informed decision-making; and
 - (B) scrutiny, discussion, comment and review of the Government's activities;
- (c) recognising that information held by the Government is a national resource and is to be managed for public purposes; and
- (d) facilitating and promoting public access to information, promptly and at the lowest reasonable cost.

12 Interaction between FOI and Privacy Acts

12.1 Both the FOI Act and Privacy Act (Australian Privacy Principles 12 and 13) allow individuals to request access to and correction of their personal information contained in records held by an agency or Minister.

12.2 It is open to an individual to choose whether they want their personal information access or correction request dealt with under the FOI Act, or APP 12 or 13.

13 Who can make an FOI request?

13.1 Any person (whether an individual or organisation) can make an FOI request irrespective of their location (i.e. whether within or outside Australia), citizenship, age or imprisonment.

13.2 An Applicant does not need to provide reasons for making an FOI request, and any reason (or lack of reasons) is not relevant in relation to accepting a request. However, an applicant's reasons may be relevant considerations when making decisions in relation to a request, such as:

- (a) (if charges have been imposed) deciding whether to waive or reduce a charge on public interest grounds; or
- (b) deciding whether an FOI exemption or conditional exemption applies in relation to a document, including weighing up the public interest test.

14 Who can an FOI request be made to?

14.1 An FOI request can be made to:

- (a) Ministers (who are separate entities for the purposes of the FOI Act); and
- (b) Commonwealth agencies (with certain exemptions), including the Department and its portfolio agencies.

14.2 The FOI Act does **not** apply (and an FOI request cannot be made) to:

- (a) exempt persons and bodies specified in Schedule 2, Part I of the FOI Act (e.g. a number of intelligence agencies); or
- (b) certain agencies in relation to particular kinds of documents (as specified in the FOI Act: section 7, and Parts II and III of Schedule 2).

15 What can be requested from an agency under the FOI Act?

15.1 An FOI request can be made to an agency for a '**document of an agency**'. This includes:

- (a) a document in the agency's possession (including documents created outside the agency and subsequently received by the agency); and
- (b) documents held by a contracted service provider in relation to the performance of a Commonwealth contract (but not the entry into the contract itself).

16 Documents in existence and requirements for document 'creation'

16.1 The right of access under the FOI Act relates to existing documents held by an agency or Minister at the time a request is received, rather than to 'information'.

16.2 There is no requirement to provide information in the way of responses to questions posed by an applicant, or otherwise create a new document in response to an FOI request.

16.3 The exception to this is where an agency could produce a written document containing the requested information by:

- (a) using a computer or other equipment ordinarily available to an agency (e.g. generating a document by running a report where data is stored in an electronic register or database); or
- (b) making a transcript of a sound recording (where relevant).

17 Documents not subject to FOI

17.1 The following kinds of documents are **excluded** or **exempt** from the operation of the FOI Act (and therefore do not need to be provided in response to an FOI request):

- (a) publicly available material maintained for reference purposes;
- (b) Cabinet notebooks;
- (c) documents described in section 7 of the FOI Act, including:
 - (i) all documents held by exempt persons and bodies specified in Part I of Schedule 2;
 - (ii) specified types of documents held by certain agencies as set out in Part II of Schedule 2;
 - (iii) documents relating to the commercial activities of a body corporate established by or under an Act specified in Part III of Schedule 2;
 - (iv) documents and information originating or received from certain specified intelligence agencies ('**intelligence agency document**');
 - (v) certain documents and information originating or received from the Department of Defence relating to operational intelligence and other specified matters ('**defence intelligence document**');
 - (vi) certain documents and information originating or received from Royal Commissions;
 - (vii) certain documents originating or received from Australian Transaction Reports and Analysis Centre ('**AUSTRAC intelligence document**').

18 Forms of FOI release

- 18.1 If an Applicant has requested access to documents in a particular form, generally access should be given in that form.
- 18.2 Documents are usually released to an Applicant by providing electronic copies in PDF format. However, occasionally documents may be provided in hard copy (for example, where an Applicant requests this or does not have an email contact).
- 18.3 On limited occasion, access may be given in the following alternative forms (either at the request of the Applicant, or where an agency considers that it is appropriate in the circumstances to do so in accordance with section 20 of the FOI Act):
- (a) providing the Applicant with a reasonable opportunity to inspect the documents in person;
 - (b) making arrangements for the Applicant to listen to an audio recording, or view visual images (i.e. video recordings);
 - (c) providing a written transcript of recorded material (e.g. audio recordings);

- (d) other appropriate forms of access where giving access in the form requested by an Applicant would:
 - (i) unreasonably interfere with the agency's operations, or the performance of a Minister's functions;
 - (ii) be detrimental to the preservation of the document, having regard to its physical nature; or
 - (iii) involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency, or a State or Territory).

18.4 If an Applicant has requested access to their own personal information but direct release might be detrimental the Applicant's physical or mental health or well-being, a decision maker may decide to release the documents to a qualified professional nominated by the Applicant (e.g. medical practitioner or counsellor).¹

18.5 Conditions on access (including restrictions on what an Applicant can do with released material) cannot be imposed when information is released under the FOI Act.

¹ FOI Act, s 47F(4) – (7).

Part E: Timeframes

19 Statutory processing timeframes

19.1 The processing period starts on the day that:

- (a) a valid FOI request is received from the Applicant; or
- (b) if an agency or Minister has accepted the transfer of an FOI request received by another agency or Minister – the date that the other agency or Minister originally received the request (i.e. the statutory processing clock does not re-start from the transfer date).

19.2 All FOI requests should be processed as soon as practicable and the Department is subject to the following statutory timeframes in relation to an FOI request:

Required action	Due date
Acknowledgement of FOI request	As soon as practicable and no later than 14 calendar days of receipt of a valid FOI request.
Charges decision under section 29(4)	As soon as practicable and no later than 30 calendar days of an Applicant contending that a charge should be waived or reduced.
Notice of decision on access to documents	As soon as practicable and no later than 30 calendar days of receiving a valid FOI request (subject to applicable extensions of time).

20 Suspension of processing timeframe

20.1 The statutory processing clock is 'paused':

- (a) **when a charges notice has been issued to an Applicant** - the clock will restart:
 - (i) when the Applicant pays the charge; or
 - (ii) a decision is made to waive charges,
 which may include following, or as a result of, the outcome of internal and/or external review processes; and
- (b) **when an Applicant is issued a formal request consultation notice advising the intention to refuse their request for a 'practical refusal reason'** - the clock will restart at the end of the 14-day request consultation period, or when the Applicant responds to the notice (if earlier).

21 Applicant response timeframes

21.1 The Applicant is subject to the following statutory timeframes in relation to an FOI request:

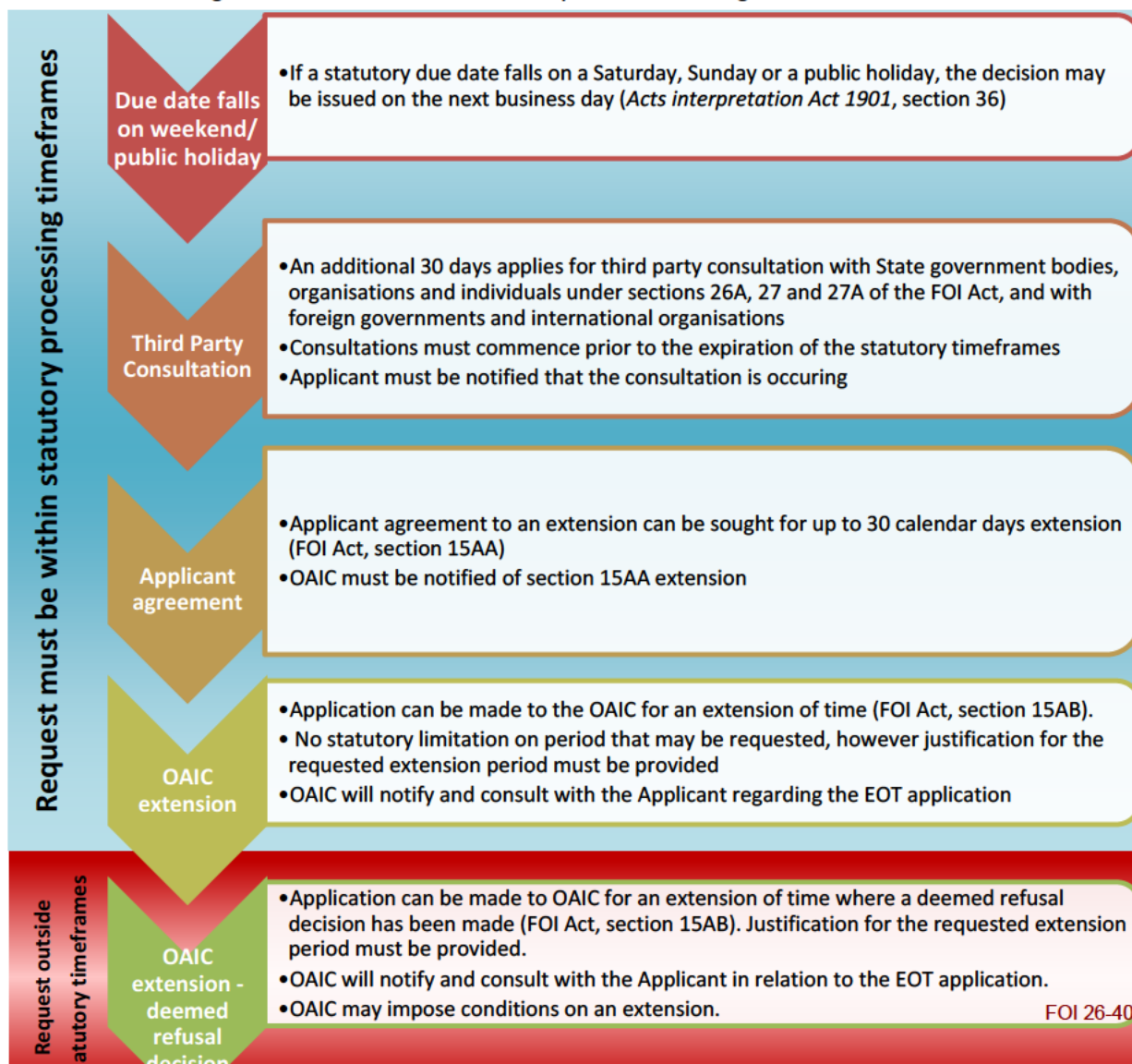
Required action	Due date
Response to charges notice	Within 30 calendar days , or such further period as the department allows, of receipt of the notification of the imposition of charges.
Response to formal request consultation notice	Within 14 calendar days of receipt of the request consultation notification and advice of practical refusal reasons. Note: The applicant may agree to extend the 14-day consultation period in writing.

22 Deemed Withdrawal

22.1 In the event that the Applicant does not comply with the statutory timeframes referred to in clause 21 above, the FOI request is taken to have been withdrawn (and no further action is required).

23 Extensions of time for FOI processing

23.1 The following events will result in the statutory timeframe being extended:



24 Failure to meet statutory timeframe - Deemed decisions

- 24.1 If a decision on access to documents in response to an FOI request is not issued within the relevant statutory timeframe (the initial 30-day period, plus any applicable extensions referred to above), a 'deemed refusal' decision is taken to have been made personally by the Secretary (for requests made to the Department), the Minister (for requests made to the Minister) or the Agency Head (for requests made to portfolio agencies) to refuse to grant access to the document.
- 24.2 Similarly for internal reviews, a 'deemed affirmation' of the original decision occurs where the Applicant has not been notified of the internal review decision within 30-days of the request for internal review being received. There are no options available to extend the internal review statutory processing timeframe prior to a 'deemed affirmation' of the original decision.
- 24.3 Where a deemed decision has occurred:
- (a) no charges can be imposed; and
 - (b) the Applicant can request an IC review of the deemed decision; or
 - (c) the FOI Section can apply to the OAIC for an extension of time under section 15AC (deemed refusal decision) or section 54D (deemed affirmation decision on internal review).
- Note 1:** If the applicant requests an IC review of the deemed decision, the OAIC cannot agree to grant an extension of time under section 15AC.
- Note 2:** In the event of an IC review, the Information Commissioner has the ability to require an agency to provide a statement of reasons in relation to a request.
- 24.4 If an extension is granted by the OAIC, the deemed decision is taken to never have happened.
- 24.5 In the event that a request is deemed to have been refused, you should seek further advice from the FOI Section prior to finalising a decision on access or an internal review decision.

Part F: FOI Processing Stages

Part F of this Framework should be read together with the FOI Processing Workflow which provides further information about the steps involved in processing an FOI request.

25 Receiving an FOI request

Requirements for a valid FOI request

- 25.1 The FOI Act sets out four criteria to be met for a request to be valid for the purposes of the Act. The request must:
- (a) be in writing;
 - (b) state it is an FOI request;
 - (c) provide sufficient information to enable the agency or Minister to identify requested documents; and
 - (d) provide contact details for sending FOI notices to the Applicant (e.g. an email or postal address for the Applicant or their authorised representative).
- 25.2 An Applicant is not required to provide reasons for their request.
- 25.3 An acknowledgement must be sent to an Applicant as soon as practicable and no later than **14 calendar days** of receipt of a valid request.

Invalid requests

- 25.4 Where an Applicant submits an invalid FOI request, the Applicant must be given reasonable assistance to make a valid request.

Applicant identity

- 25.5 Applicants are not required under the FOI Act to:
- (a) identify themselves or provide proof of their identity (i.e. they can make a request anonymously or by using a pseudonym²; or
 - (b) establish their status as a legal entity (in the case of an organisation or other body).
- 25.6 An Applicant's identity may, however, be relevant in determining the application of FOI exemptions and whether documents can be released.

² This is consistent with the Department's privacy obligations under APP 2.

- 25.7 Where an individual Applicant has requested access to documents containing their own personal information, an agency should use reasonable endeavours to obtain evidence of the Applicant's identity before a decision on access is made and any documents released. If no such evidence is provided, an appropriate decision on access should be made.

Representative requests

- 25.8 If a person makes an FOI request:
- (a) on behalf of another person; or
 - (b) seeking information relating to another person (e.g. an individual's personal information, or an organisation's business information),
- evidence of the other person's consent, or the Applicant's authority to act in respect of the other person, should be obtained. This will be important in determining whether the requested documents can be released to the person who made the request.
- 25.9 In cases where an Applicant is (or appears to be) affiliated with an organisation, it may be appropriate to confirm whether the Applicant is making the FOI request in a personal or representative capacity.
- 25.10 A lack of consent or authority to act does not result in the request being invalid. A decision on access must still be made, having regard to the circumstances of the particular request.

26 Stakeholder notification of requests received and access decisions

- 26.1 If a request is a Sensitive Issue request, the FOI Section will provide notification of:
- (a) receipt of the request, and
 - (b) the access decision (where practicable, at least 2 days before the decision is due to be issued to the Applicant), to:
 - (i) the Deputy Secretary, First Assistant Secretary and Assistant Secretary responsible for the FOI function;
 - (ii) the Deputy Secretary, First Assistant Secretary and Assistant Secretary (usually the Decision Maker) responsible for the Responsible Business Area for the request;
 - (iii) the Media Team;
 - (iv) the relevant Minister's Office; and
 - (v) any other relevant internal and external stakeholders, to be determined by the Decision Maker and the FOI Section.
- 26.2 The Decision Maker must assist with any additional briefings as required.

27 Interpreting the scope of an FOI request

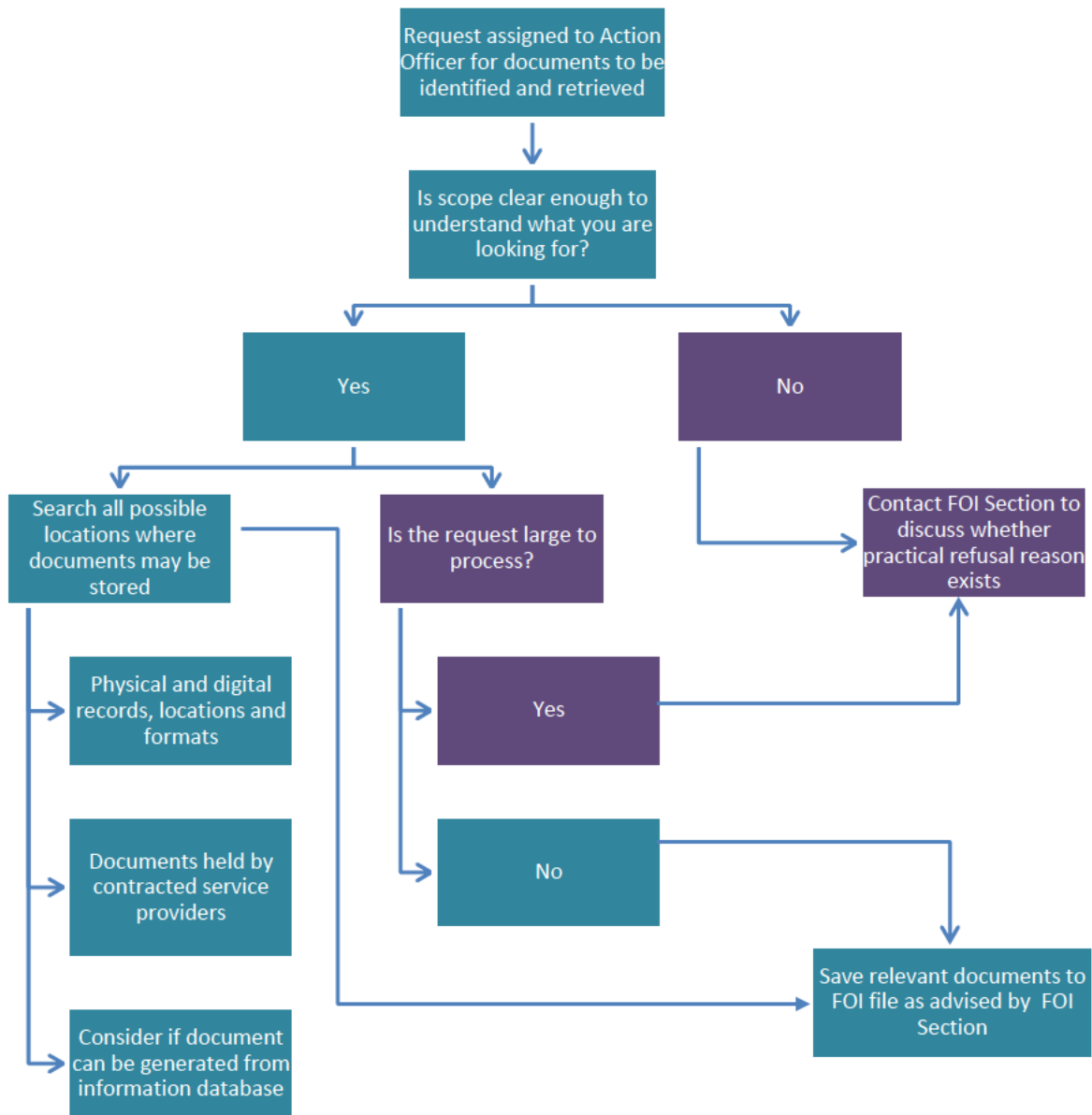
- 27.1 The terms and scope of an FOI request should be interpreted by:
- (a) applying a fair, flexible and common-sense approach; and
 - (b) not adopting an overly narrow or pedantic interpretation.
- 27.2 If the scope is unclear, the Applicant should be contacted for clarification.
- 27.3 The Department has a statutory obligation to take reasonable steps to assist the Applicant to make a valid request.
- 27.4 If (after making reasonable efforts to clarify the scope of the request with the Applicant) the request still lacks sufficient information to enable the Department to ascertain what the Applicant is seeking and identify relevant documents, a practical refusal reason will exist under section 24AA. Before the request can be refused, a consultation process in accordance with section 24AB must be undertaken to give the Applicant an opportunity to make a revised request (see clause 31 below).

28 Transfer of a request to another agency

- 28.1 In accordance with section 16 of the FOI Act, an agency or Minister ('**originating agency**') may transfer an FOI request (in whole or in part) to another agency with their agreement where:
- (a) the originating agency does not possess the requested documents, but is aware that they are in the possession of the other agency; or
 - (b) the subject matter of the requested documents is more closely connected with the other agency's functions (rather than those of the originating agency).
- 28.2 Where a requested document originated in or was received from, and is more closely connected with the functions of, an exempt agency specified in Part I of Schedule 2 of the FOI Act, the request in respect of that document must be transferred to the portfolio department responsible for the exempt agency.
- 28.3 Similarly, where a requested document:
- (a) originated in or was received from an agency specified in Part II of Schedule 2; and
 - (b) is more closely connected with the functions of the other agency in relating to documents in respect of which that other agency is exempt from the operation of the FOI Act,
- the originating agency must transfer that part of the request to the other agency.
- 28.4 The FOI Section will:
- (a) liaise with the other agency or portfolio department in relation to the transfer of a request; and
 - (b) notify the Applicant when a request has been transferred.
- 28.5 An agency also has an obligation to assist an Applicant to direct their request to the appropriate agency.

29 Search and retrieval

- 29.1 The search and retrieval process is illustrated in the diagram below.
- 29.2 Agencies and Ministers are obliged to undertake reasonable searches for documents relating to an FOI request.
- 29.3 What constitutes a 'reasonable' search will depend on the circumstances of the request, having regard to factors such as:
- (a) the nature, subject matter and age of the documents;
 - (b) the normal business practices and operating environment of the agency or Minister's Office;
 - (c) current and previous record management systems and processes in place (including archiving and destruction practices, and back-up systems); and
 - (d) persons within the agency or Minister's Office who may have knowledge of the existence of, or may be able to assist with locating, the documents.
- 29.4 At the commencement of a request, the FOI Case Officer will provide the Decision Maker and Action Officer with a Search and Retrieval Form, and a Schedule of Documents. The Decision Maker and Action Officer must complete the Form and Schedule (to be returned to the FOI Section / Case Officer) which:
- (a) in the case of the Search and Retrieval Checklist:
 - (i) provides details of the searches undertaken; and
 - (ii) certifies that all reasonable steps have been taken to identify and locate relevant documents;
 - (b) in the case of the Schedule of Documents:
 - (i) lists all of the documents identified as relevant to the request; and
 - (ii) provides details of inter-agency and Affected Third Party consultation requirements (including contact details for relevant Affected Third Parties), and
 - (iii) sets out any document sensitivities.



30 Refusing a request – no documents

30.1 A Decision Maker can refuse a request under section 24A of the FOI Act where they are satisfied that:

- (a) all reasonable searches for the requested documents have been undertaken, and the documents cannot be found or do not exist; and/or
- (b) (if applicable) reasonable steps have been taken to obtain relevant documents held by a contracted service provider or subcontractor, but those documents have not been provided.

31 Refusing a request following a request consultation process - practical refusal reasons

31.1 An FOI request may (following a request consultation process) be refused under section 24 of the FOI Act where one (or sometimes both) of the following practical refusal reasons exist:

- (a) the request does not provide sufficient information to enable relevant documents to be identified (as required by section 15(2)(b) of the FOI Act); and/or
- (b) the request is voluminous and/or the amount of processing work involved would amount to a substantial **and** unreasonable diversion of resources.

31.2 The time and resources involved in processing a request should be assessed as accurately as possible. Relevant factors in undertaking this assessment will include the number of documents and pages captured by the request, the complexity and sensitivity of the content of those documents, and the extent of any required third party consultations.

31.3 There is no definitive benchmark for what constitutes a substantial and unreasonable diversion of resources of an agency, and each request should be considered on its own merits and with regard to the circumstances of the processing agency.

Note: The threshold for what constitutes a substantial **and** unreasonable diversion of resources may differ for a larger agency with a dedicated FOI team, than for a smaller agency that does not have full-time staff dedicated to the FOI function.

Request consultation process - requirements

31.4 Before a request can be refused on practical refusal grounds, a request consultation process with the Applicant must be undertaken (section 24AB refers). A written notice must be sent to the Applicant:

- (a) indicating the intention of the agency or Minister to refuse the request;
- (b) setting out clearly the grounds for the practical refusal reason(s), including a realistic and factual quantification of the documents captured by the request; and
- (c) giving the Applicant the opportunity to either withdraw their request, make a revised request with a view to removing the practical refusal reason, or indicate that they do not wish to revise the request.

31.5 Applicants must be given reasonable assistance to revise their request so that it can be processed, for example by:

- (a) providing a breakdown of the estimated time for various steps in the process, or for different parts of the request;
- (b) giving the Applicant information about:
 - (i) the nature of the relevant documents and the extent to which they are likely to be able to be released to the Applicant (having regard to potential applicable exemptions); or

- (ii) publicly available information that may be relevant to, or otherwise assist them in refining, their request;
 - (c) making suggestions as to how the Applicant could narrow the scope of their request, such as limiting the date range, specifying or excluding certain types of documents.
- 31.6 The request consultation period is **14 days**, or such further period as may be agreed in writing with the Applicant. The processing clock is suspended during this consultation period.
- 31.7 If the Applicant submits a revised request so that the scope is clear and of a reasonable size:
- (a) the processing clock will recommence on the day after date that the revised request is provided to the agency or Minister; and
 - (b) the request will continue to be processed with a view to finalising a decision on access.
- Note:** An agency is not obliged to release the documents simply because they are captured by the revised scope. A decision maker must assess those documents under the provisions of the Act, and make a decision on access to them, as they would have had the request consultation process not occurred.
- 31.8 If the Applicant does not respond to the request consultation notice, the request is taken to have been withdrawn and no further action is required.
- 31.9 An agency is only obliged to undertake the request consultation process once (although it is open to them to undertake further request consultation processes).
- 31.10 If a practical refusal reason remains after the initial request consultation process, it is open to the Decision Maker to refuse the request under section 24, or to continue to process the request.

32 Charges

What charges can (and cannot) be imposed?

- 32.1 Agencies and Ministers have a discretion to impose charges on an Applicant for certain FOI processing tasks, in accordance with section 29 of the FOI Act and the Charges Regulations.
- 32.2 Charges must be calculated in accordance with the Charges Regulations.
- 32.3 The cost to the Commonwealth of calculating and collecting the charge should not exceed the cost to the agency of processing the request.
- 32.4 No charges can be imposed for the following:
- (a) lodging an FOI request;
 - (b) requests by Applicants seeking access to their own personal information;
 - (c) the first five (5) hours of decision-making time; or

(d) requests where a decision is not provided to the Applicant within the statutory timeframe.

32.5 The imposition of charges should be considered:

- (a) on a case by case basis; and
- (b) having regard to the objects of the FOI Act (including the lowest reasonable cost objective).

32.6 Applicants should also be made aware of options to obtain administrative access or other forms of free access to documents or information outside the FOI Act.

Calculating charges

32.7 If a Decision Maker is of the view that charges should be imposed, the FOI Section will consider whether this would be appropriate in the circumstances and, as applicable, calculate the relevant charge amount (with assistance from the Decision Maker and Action Officer, as required).

32.8 Although the charges calculation is an estimate, it should be as accurate and realistic as possible and fairly reflect the work. The relevant documents (or in the case of large requests, a reasonable representative sample³) should be reviewed to inform the basis for the calculation.

Charges notice – preliminary assessment

32.9 Authorised EL1 and EL2 officers in the FOI Section will make final decisions relating to the imposition of charges (and the amount of charge), having regard to the Decision Maker's views.

32.10 If a decision is made that the Applicant is liable to pay a charge, a written notice (commonly referred to as a 'charges notice') must be provided to the Applicant advising them that they are liable to pay a charge, and setting out the preliminary assessment of the charge amount including the basis on which the calculation was made.

32.11 The processing clock is suspended from the time the Applicant is notified of the preliminary assessment of charges until the time the Applicant agrees in writing to pay the charge, the charge is waived, or a decision is made to not impose the charge.

32.12 Applicants have **30 calendar days**, or such further period as the department allows, to respond in writing to the charges notice and either advise that they:

- (a) agree to pay the charge; or
- (b) contend that the charge has been incorrectly calculated, or should be reduced or waived; or
- (c) withdraw the request.

32.13 If the Applicant does not provide a response within **30 calendar days**, or such further period as the department allows, the FOI request will be taken to have been withdrawn and no further action will be required.

³ At least 10%.

Request for waiver or reduction of charge

32.14 If an Applicant makes a contention that the charges should be waived or reduced, a decision under section 29(4) of the FOI Act must be made as soon as practicable and no later than **30 calendar days** of receiving the Applicant's contention.

32.15 In considering whether to waive or reduce a charge, the following must be considered:

- (a) whether payment would cause financial hardship to the Applicant (or person on whose behalf the request is made);
- (b) whether giving access to the documents in question is in the general public interest, or in the interest of a substantial section of the public⁴; and
- (c) any other relevant factors according to the circumstances.

32.16 An Applicant may seek review of a charges decision made under section 29(4) of the FOI Act.

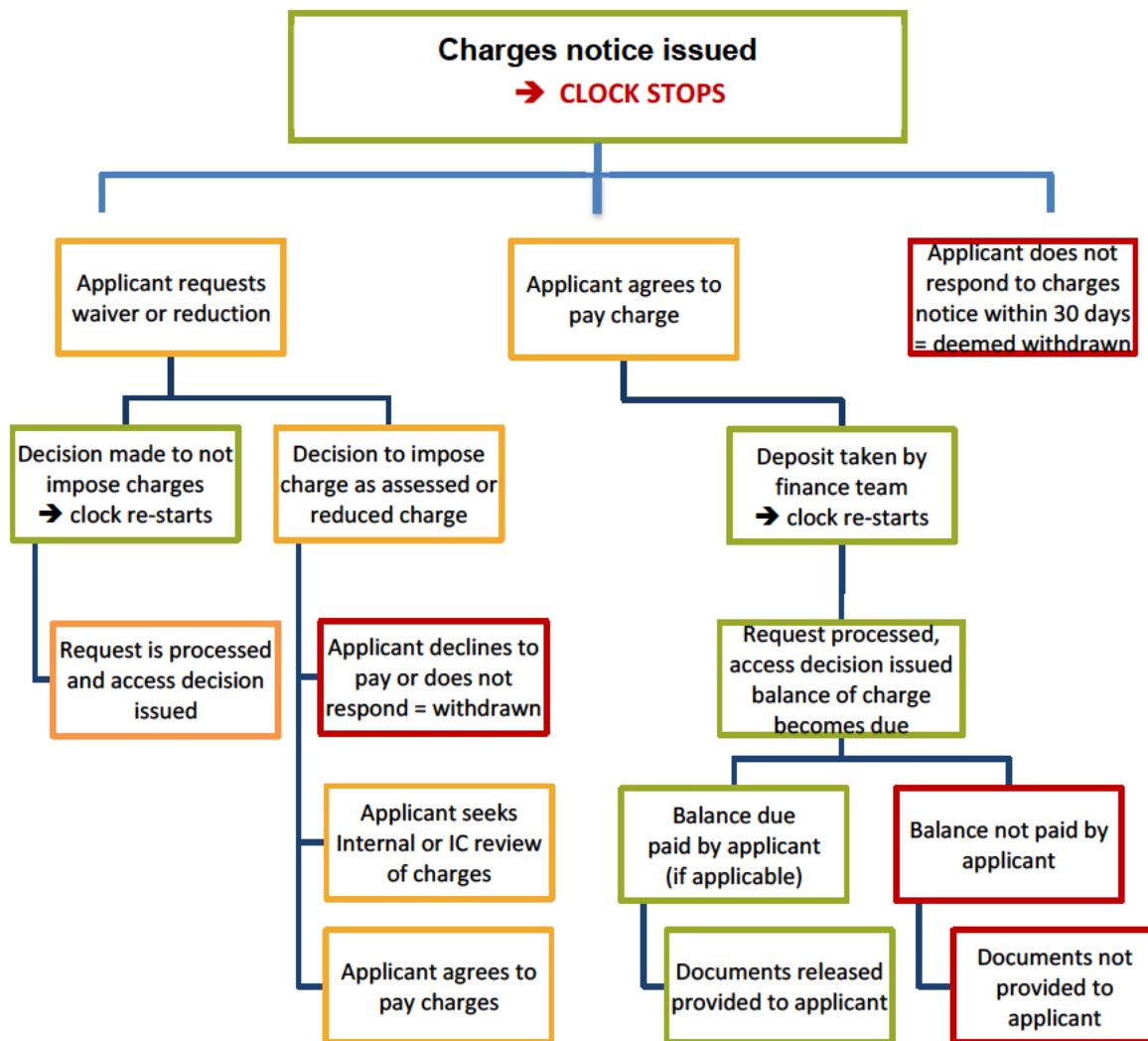
32.17 The statutory processing timeframe:

- (a) remains paused during the consideration of any contention that charges should be waived or reduced, and any subsequent review processes; and
- (b) recommences (and the request must proceed to the making of a decision on access to documents) if and when:
 - (i) all review processes are concluded;
 - (ii) charges are waived; or
 - (iii) charges are reduced and the applicant pays the reduced amount.

32.18 Once the review is concluded, if the charges are waived, or reduced and paid, the statutory processing clock re-commences and the request must proceed with a decision on access being made.

32.19 The process which follows the issuing of a charges notice is illustrated in the diagram below.

⁴ Note the public interest test for charges purposes is different to the public interest test relating to conditional exemptions.



Refunding charges

32.20 Charges paid by an Applicant must be refunded where:

- (a) a deemed refusal decision has been made;
- (b) the actual processing time is less than the amount of time on which charges estimate was based – in this situation, the Applicant should be refunded the excess amount paid; or
- (c) the Applicant contests the imposition of charges, and a decision is made to reduce or waive the charge.

33 Consultation – third parties and Commonwealth agencies

33.1 Formal Affected Third Party consultation and informal inter-agency⁵ consultation requirements are summarised in the following table, with additional guidance further below.

Consultation Party	Relevant documents / information	Applicable 30 day extension ⁶	Requirement for Applicant notification of consultation	Requirement for third party/agency notification of decision	Review rights
Formal Affected Third Party Consultation					
Section 15(7) ➤ foreign government ➤ foreign government authority ➤ international organisation	Material that may be exempt under s.33(a)(iii) (damage to international relations) or s.33(b) (information communicated in confidence by a foreign govt or international organisation) ⁷	Yes s.15(8)(a)	Yes s.15(8)(b)	No	No
Section 26A ➤ State/Territory government ➤ agency of State/Territory government	Material originating or received from State that may be exempt under s.47B (damage to Commonwealth-State relations, or information communicated in confidence by a State government)	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes s.26A(3)	Yes s.26A(4) s.53C
Section 27 ➤ person ➤ organisation ➤ undertaking	Trade secrets or commercially valuable information that may be exempt under s.47 Business information that may be exempt under s.47G	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes - s.27(6) if the third party makes submissions in support of exemption contention	Yes s.27(7) s.53C
Section 27A ➤ individual	Personal information that may be exempt under s.47F	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes s.27A(5) if the third party makes submissions in support of exemption contention	Yes s.27A(6) s.53C
Informal Inter-agency Consultation					
➤ Commonwealth agencies (including any relevant Minister’s Offices)	Material originating or received from, or concerning the functions or activities of, another agency	No	No	No	No
➤ PM&C	Cabinet related material that may be exempt under s.34	No	No	No	No

(Formal) Affected Third Party consultation

33.2 Consultation with an Affected Third Party must be undertaken, and a decision to grant access to a document should not be made until reasonable steps have been taken to undertake that consultation, where:

- (a) a State government may wish to claim that a document is exempt under section 47B of the FOI Act

⁵ Inter-agency consultation can include Minister's offices (including Ministers within and outside the Department's portfolio).

⁶ While up to a further 30 days can be provided, requests should continue to be processed as soon as practicable.

⁷ Consider inter-agency consultation with DFAT.

(Commonwealth-State relations);

- (b) a person or organisation may wish to claim that a document is exempt under section 47 (trade secrets or commercially valuable information), or section 47G (business information); or
- (c) an individual may wish to claim that a document is exempt under section 47F (unreasonable disclosure of personal information).

33.3 If a decision is made to grant access to documents against the objections of an Affected Third Party (other than a foreign government or international organisation consulted under section 15(7)⁸):

- (a) the Affected Third Party must be notified of the access decision and their review rights; and
- (b) the relevant documents must not be released to the Applicant until the Affected Third Party's review rights have been expired or run out.

33.4 Consultation may also be undertaken with a foreign government or international organisation where the section 33 exemption (international relations) may apply. However, there is no requirement to notify the foreign government or international organisation of the decision on access, nor do they have any review rights.

33.5 The statutory processing timeframe is extended by 30 days for formal Affected Third Party consultation.

PM&C consultation in relation to Cabinet material

33.6 Cabinet Circular 4 of 2020 (Freedom of Information) issued by the Department of the Prime Minister and Cabinet (**PM&C**) provides that all agencies must consult PM&C in relation to requests for documents that contain Cabinet material.

33.7 All Cabinet-related material captured by an FOI request must be handled in accordance with the safe handling procedures outlined in the Protective Security Policy Framework, its related guidelines and protocols.

33.8 A decision must not be made relating to the access or release of Cabinet-related documents until and unless consultation has occurred, with, and advice has been received from, PM&C.

33.9 The statutory processing timeframe is **not** extended for PM&C consultation.

(Informal) Inter-agency consultation

33.10 If a document originated with or relates to the functions of another Commonwealth agency or Minister, that other agency or Minister should be consulted about the potential release of the documents.

33.11 Decision Makers are responsible for ensuring all relevant agencies and Ministers requiring consultation are identified. The FOI Section will then undertake the informal inter-agency consultation process.

⁸ Foreign governments and international organisations do not have review rights under the FOI Act.

33.12 Inter-agency consultation can assist to understand:

- (a) whether information contained in the document has previously been released or published; and
- (b) any sensitivities arising from disclosure which may attract the application of FOI exemptions.

33.13 Decision Makers are required to make an independent decision on access to documents, however they should take into account submissions received during inter-agency consultation when forming their views.

33.14 The statutory processing timeframe is **not** extended to facilitate inter-agency consultation.

34 FOI exemptions and additional exemptions

34.1 When identifying document sensitivities and considering whether a document (or certain information within a document) should be released to an Applicant, Decision Makers should consider whether an exemption or conditional exemption provision under the FOI Act applies.

- (a) **Exempt documents** are not required to be released if the relevant factual or harm threshold in the exemption provision is satisfied.
- (b) **Conditionally exempt documents** require the relevant factual or harm threshold in the conditional exemption provision to be satisfied, **plus** the public interest test must be met, before access can be refused.

34.2 The public interest test is whether disclosure would be **contrary to the public interest**, not whether there is a public interest in disclosure.

34.3 The application of exemptions and conditional exemptions must be considered on a case by case basis, with reference to the particular document, its contents and the potential harm that may arise from disclosure at that point in time. Decision Makers should, as necessary, consult with the FOI Section (in the first instance) and Legal Services (if legal advice is required) in relation to the application of exemptions.

34.4 For further information and guidance about FOI exemptions and conditional exemptions, see:

- (a) FOI Quick Reference Guide: Exemptions and Conditional Exemptions;
- (b) Parts 5 and 6 of the Information Commissioner's FOI Guidelines; and
- (c) the FOI Act, sections 11A, 11B, and 33 – 47J.

35 Decision making

35.1 Decision Makers must:

- (a) exercise their discretionary powers and make decisions (including in relation to the application of exemption and conditional exemption provisions):
 - (i) independently;
 - (ii) in accordance with the FOI Act; and
 - (iii) having regard to the objects of the FOI Act, and the Information Commissioner's FOI Guidelines;
- (b) take into account all relevant factors, considerations and evidence, and not take into account irrelevant matters⁹;
- (c) when applying the public interest test to conditionally exempt documents:
 - (i) identify and weigh public interest factors favouring disclosure (including those mentioned in section 11B(3) of the FOI Act), against those against disclosure; and
 - (ii) not take into account the irrelevant factors in section 11B(4);
- (d) consider whether an edited version of a document could be provided to the Applicant with redactions to irrelevant and exempt material.

35.2 The FOI Section will:

- (a) prepare a Decision Pack for the Decision Maker which includes a draft decision and (if relevant) a copy of the documents with marked redactions over exempt or irrelevant material proposed for redaction; and
- (b) provide the Decision Pack to the Decision Maker for their review and consideration.

35.3 Decision Makers will need to complete a Decision Maker Checklist and return it to the FOI Section at the time that the decision is finalised.

36 Notifying a decision

36.1 An agency must provide an Applicant with written notice of the decision on access to documents, including:

- (a) the name and designation of the Decision Maker;

⁹ While an applicant's right of access to documents should not be affected by their reasons for seeking access, those reasons (and/or any other submissions made by an applicant) may be relevant considerations in determining the application of exemptions, including weighting up the public interest test.

- (b) a statement of reasons; and
- (c) notice of the Applicant's review rights.

36.2 The FOI Section / Case Officer will prepare the draft decision on access for the Decision Maker's review.

36.3 If a decision has been made to release material against the exemption contentions made by a consulted Affected Third Party (other than a foreign government or international organisation consulted under section 15(7)¹⁰), the Decision Maker must also notify the relevant Affected Third Party of their decision, reasons for decision and notice of the Affected Third Party's review rights.

36.4 In both cases, a statement of reasons should set out:

- (a) findings on material questions of fact, referring to the material and the evidence on which those findings are based; and
- (b) clear and logical reasoning for the decision.

36.5 If there are multiple documents relating to a request, it is considered best practice to include a Schedule of Documents with the statement of reasons, so as to clearly identify the decision on access and relevant exemptions applied in respect of each document.

¹⁰ Foreign governments and international organisations do not have review rights under the FOI Act.

Part G: Reviews and complaints

37 Rights of review

- 37.1 FOI applicants and Affected Third Parties (other than foreign governments, foreign government bodies and international organisations) generally have two avenues for review of a decision made by a Decision Maker on an FOI request:
- (a) an internal review by an Internal Reviewer (subject to the limitations outlined in clause 38.1 below); and/or
 - (b) review by the Information Commissioner (IC review).
- 37.2 Applicants and Affected Third Parties are not required to apply for internal review of a decision before applying for IC review (i.e. they can choose to go straight to IC review).

38 Internal Review

- 38.1 Internal review is not available where the original decision (including a deemed refusal decision) is made by the Secretary, a principal officer of an agency or a Minister (including a decision made on behalf of a Minister). The Applicant or Affected Third Party must apply for IC review.
- 38.2 Applicants can apply (within **30 days**, or such further period as the department allows, of receiving the original decision) for internal review of:
- (a) a charges decision under section 29(4); or
 - (b) an 'access refusal decision'.
- 38.3 Affected Third Parties can apply (within **30 days**, or such further period as the department allows, of receiving the original decision) for internal review of a decision to release documents against their exemption contentions.
- 38.4 It is open to an agency to agree to extend that time, and to accept an internal review request received outside that timeframe. A decision to do so must be made by an authorised Decision Maker, and a decision to refuse to grant an extension of time can be reviewed by the Information Commissioner.
- 38.5 An Internal Reviewer must make a fresh, independent and impartial decision (i.e. they cannot simply adopt the original Decision Maker's decision).
- 38.6 An internal review request is processed in a similar manner outlined in **Part F** of this Framework and the FOI Processing Workflow. The Internal Reviewer may rely on the original document search and/or third party consultation, or may cause the same work to be undertaken again. However, note that no statutory extensions of time apply in relation to undertaking further consultation during an internal review process.

- 38.7 All the material available to the original Decision Maker should be available to the Internal Reviewer, and the Internal Reviewer may consult other agency staff when undertaking the review, including the original Decision Maker.
- 38.8 The Internal Reviewer must consider all issues raised by the person applying for internal review, and may consider additional material or submissions not considered by the original Decision Maker.
- 38.9 In particular, the Internal Reviewer may decide that, with the passage of time since the Original Decision was made, a change in circumstances results in additional material being released to the Applicant.

39 Information Commissioner Review

- 39.1 An IC Review application can be made:
- (a) within **60 days** by an Applicant; and
 - (b) within **30 days** by an Affected Third Party.
- 39.2 The Information Commissioner can review the following decisions:
- (a) access refusal decision;
 - (b) access grant decision;
 - (c) refusal to extend the period for applying for internal review under s 54B;
 - (d) an agency internal review decision under s 54C; and
 - (e) deemed decision where the statutory timeframe was not met.
- 39.3 The FOI Section will:
- (a) notify the Legal Services of IC review applications, and consult with them (as appropriate) about the management of the IC review process;
 - (b) liaise with the OAIC, and the original Decision Maker and/or Internal Reviewer, as appropriate, regarding the IC review process; and
 - (c) notify any relevant Affected Third Parties in relation to an IC Review application made by an Applicant, ensuring a formal notice is issued to them under section 54P of the FOI Act.
- 39.4 Decision Makers, Internal Reviewers, Action Officers and other staff may be required to assist with responding to IC review applications, including the preparation of submissions and evidence.
- 39.5 Further information about IC reviews can be found on OAIC's [website](#).

40 ART Review

- 40.1 IC review decisions can be appealed to the Administrative Review Tribunal (**ART**) within 28 days of the decision by the Information Commissioner.
- 40.2 Legal Services will manage ART appeals with the assistance of the FOI Section.
- 40.3 The FOI Section will (as requested by Legal Services) notify Affected Third Parties if an Applicant seeks ART review (unless the ART orders otherwise).

41 Complaints to the Information Commissioner

- 41.1 A person can make a complaint to the Information Commissioner concerning any action by an agency or Minister in relation to an FOI process.
- 41.2 The Information Commissioner will (subject to limited exceptions) investigate all complaints received. They can also:
- (a) undertake own motion investigations; and
 - (b) transfer complaints to the Commonwealth Ombudsman.
- 41.3 The FOI Section will:
- (a) notify Legal Services of FOI complaints made to the Information Commissioner, and consult with them about the management of the complaint process; and
 - (b) liaise with the OAIC, and the original Decision Maker and/or Internal Reviewer, as appropriate, regarding the complaint process.
- 41.4 Decision Makers, Internal Reviewers, Action Officers and other staff may be required to assist with responding to FOI complaints, including the preparation of submissions and evidence.

Part H: Disclosure Log

42 Overview of requirements

- 42.1 Agencies and Ministers are required under section 11C of the FOI Act to publish information that has been released in response to an FOI request (subject to certain exceptions). This is known as the 'FOI disclosure log'.
- 42.2 Released information can be published on a website by:
- (a) making the information available for downloading from the website;
 - (b) providing a link to another website from which the information can be downloaded or
 - (c) giving details about how the information can be obtained.
- 42.3 The Department's website has a disclosure log webpage. Generally, information released in response to FOI requests is made available for downloading. In instances where this is not possible, documents will be made available to members of the public on request by emailing the FOI Section (FOI@infrastructure.gov.au).

43 Information not required to be published on the Disclosure Log

- 43.1 The following kinds of information are not required to be published on the disclosure log:
- (a) personal information about any person where publication would be unreasonable;
 - (b) business information about the business, commercial, financial or professional affairs of any person (whether an individual or organisation) where publication would be unreasonable;
 - (c) other information of a kind determined by the Information Commissioner where publication would be unreasonable.

44 Disclosure log decision making

- 44.1 The FOI Section is responsible for coordinating the publication of relevant documents on the disclosure log.
- 44.2 When an access decision has been finalised, the Decision Maker is required to complete the Disclosure Log Recommendation section of the Decision Maker Checklist, identifying any documents or information that would be unreasonable to publish on the Department's disclosure log.
- 44.3 The Director responsible for the FOI Section will decide, based on advice from the Decision Maker in the Disclosure Log Recommendation, on the publication of documents on the disclosure log.

45 Timeframes

- 45.1 Information must be published on the disclosure log within **10 working days** of giving an Applicant access to documents.

Annexure A:

FOI requests received by portfolio Ministers

Specific procedures for processing requests received by portfolio Ministers will be set out in this Annexure as they are developed, and may be supplemented by other FOI resources such as Quick Reference Guides.

46 What can be requested?

46.1 An FOI request can be made to a Minister for an **official document of a Minister** – i.e. a document that:

- (i) is in the possession of a Minister, in their capacity as a Minister (i.e. as opposed to MP for their electorate); and
- (ii) relates to the affairs (i.e. functions or activities) of a department or agency.

46.2 See **Part B** of this Framework for further explanation of the terms 'document' and 'official document of a Minister'.

47 Decision making

47.1 FOI decisions must be made personally by a Minister. There is no express power under the FOI Act for a minister to delegate or authorise another person to make decisions on requests received by a Minister.

47.2 However:

- (a) it is open to a minister to authorise senior members of their staff to make such decisions;
- (b) it is desirable that this be done by a written instrument of authorisation or under an arrangement in writing approved by the minister.

47.3 Decisions made by a person authorised by a minister are made in the capacity of an agent rather than in their own right as an authorised person.

47.4 A Minister can be assisted by others to process a request made to them.

48 Review rights

48.1 Because FOI decisions are required to be made by the Minister personally, no internal review is available. Instead, Applicants and Affected Third Parties must seek IC review if they are unhappy with a decision.

Annexure B: FOI requests received by portfolio agencies

Content currently under development.

Specific procedures for processing requests received by the Department's portfolio agencies will be set out in this Annexure, and may be supplemented by other FOI resources such as Quick Reference Guides.

Document Review

Revision History

Version No.	Date	Clause	Description	Approved By
1.0	21.06.2024	All	Prepared by Legal, Privacy and FOI Division with assistance from Minter Ellison	Chris Burke Chief Counsel
2.0	13.04.2026	All references to Legal, FOI and Privacy Division updated to Legal and Integrity Division All references to Administrative Appeals Tribunal (AAT) to Administrative Review Tribunal (ART) Definition of Sensitive Issue request updated References to timeframes updated to reflect wording in the FOI Act: • 19.2 • 21.1 • 32.12 • 32.13 • 32.14 • 38.2 • 38.3	Updated by the Legal and Integrity Division	Christie McClure Chief Counsel

Next review date: January 2027



FOI Quick Reference Guide: FOI Processing Workflow

Step	Calendar Day	Milestone	ROLES AND RESPONSIBILITIES		
			FOI Section	Responsible Line / Business Area	
			FOI Case Officer (FOI CO)	Action Officer (AO) - EL1 or above	Decision Maker (DM) - SES Officer
Step 1 - Initiation	0	Request received	- Determine validity and scope - If invalid, assist applicant to make valid request		
	1	Request Registration & Allocation	- Register request - Identify whether 'Sensitive Issue' request (and if so, notify Legal Services POC) - Acknowledge request to applicant - Identify responsible business area and DM - Send FOI request notification email to DM	- Confirm DM and nominate AO to FOI - Consider if request is a 'Sensitive Issue' request	
Step 2 - Search, Retrieval and Preliminary Assessment	2-5	Kick-off Email	Email AO with actions required for search and retrieval	Commence search and retrieval of relevant documents referring to search and retrieval	
		Initial Meeting	Discuss request scope and processing approach, including: stakeholder notifications/engagement, potential charges or practical refusal grounds (i.e. large volume of documents, or scope too unclear to identify documents), overall sensitivities, possible administrative release.		
		Stakeholder Notifications	Send notification of request to relevant stakeholders	Provide any required input for stakeholder notifications (and ensure any necessary clearances are obtained)	
	≤10	Search and Retrieval	- Review completed Search & Retrieval Form, and Schedule of Documents - Undertake preliminary review of documents to identify any additional potential consultations or sensitivities - Liaise with AO and DM to obtain any further information	- Undertake search and retrieval of documents - Contact FOI CO asap if large number of documents identified	- Oversee search and retrieval process - Undertake preliminary review of identified documents to confirm relevance - Consider what internal/external stakeholders may need to be consulted
Step 3.1 - Practical Refusal Reason Request Consultation	≤12	Formal Request Consultation (as required)	- FOI CO, AO and DM collaborate to establish whether practical refusal threshold met - Prepare Practical Refusal Consultation (PRC) Notification for applicant - Issue PRC Notice to applicant, and notify AO - Consult as required with applicant - If applicant makes revised request, liaise with AO and DM to determine whether request can be processed.	- Provide information on processing time estimate to FOI CO to prepare the PRC Notice - Assist FOI during the consultation process, including assistance on revising request - Following the consultation process, liaise with the FOI CO and DM to confirm whether a practical refusal reason still exists	Liaise with the FOI CO and AO to confirm that a practical refusal reason exists (or still exists following the consultation process).
			IF PRACTICAL REFUSAL CONSULTATION NOTICE SENT - PROCESSING CLOCK SUSPENDED: Until a response is received from the applicant but by not later than 14 calendar days from when the applicant received the notice		
Step 3.2 Charges	≤12	Determine if charges will be imposed	- Determine whether charges are to be imposed - If yes, issue Charges Notice to applicant	- Provide input into FOI CO consideration/determination of whether charges should be imposed - Assist the FOI CO in relation to determining the assessment of/calculating charges, as required.	
			IF CHARGES NOTICE SENT = PROCESSING CLOCK SUSPENDED: Until the relevant charges are paid or subsequently waived. The applicant has 30 days to respond to the charges notification.		
Step 3.3 Consults	≤15	3rd Party Consultation (as required)	- Conduct external consultation with 3rd parties and/or other Commonwealth agencies/entities - Consolidate consultation responses for DM	Assist with any relevant stakeholder engagement where required	
			IF 3rd PARTY CONSULTATION IS REQUIRED = PROCESSING CLOCK EXTENDED (FOR 30 DAYS)		
Step 4 - Decision-making	≤20	Meeting	Discuss proposed decision, including preliminary views re application of FOI exemptions and any administrative release of documents		
		Preparation of Decision & Documents	- Prepare and send to DM: - draft access decision for applicant (if relevant) draft 3rd party access decision - consolidated consultation responses - any documents with marked-up redactions - any documents proposed for release with applied redactions - If a 'Sensitive Issue' request, provide draft decision to Legal Services for legal review		
	21-27	Finalise Decision	Liaise with DM and AO (and Legal Services, as appropriate) to progress decision to finalisation	Liaise with and assist DM and FOI CO to progress decision to finalisation	- Liaise with AO and FOI CO to finalise decision - Review decision pack - Consider application of FOI exemptions and conditional exemptions - If 'Sensitive Issue' request – ensure media talking points and/or briefings to relevant Executives, MO, etc are prepared (and consider if legal advice/input required)
	28	Stakeholder Notifications	Send notification of proposed decision to relevant stakeholders		Provide any required input for stakeholder notification
	30	Decision Issued	- Issue decision to applicant and any documents to be released - Issue access decision to affected 3rd parties (if relevant)	Ensure FOI processing timesheet is completed and signed by relevant officers and return to FOI CO	Ensure FOI processing timesheet is completed and signed
Step 5 - Disclosure Log	+10 Business Days	Publication of Released Documents on Disclosure Log	PROCESSING CLOCK STOPS		
			- Review DM disclosure log recommendations - Prepare documents for publication (including any additional redactions) - Provide document publication pack to the Web Services team for publication within 10 working days from release to the applicant	Liaise with FOI CO regarding publication of released documents, as required	