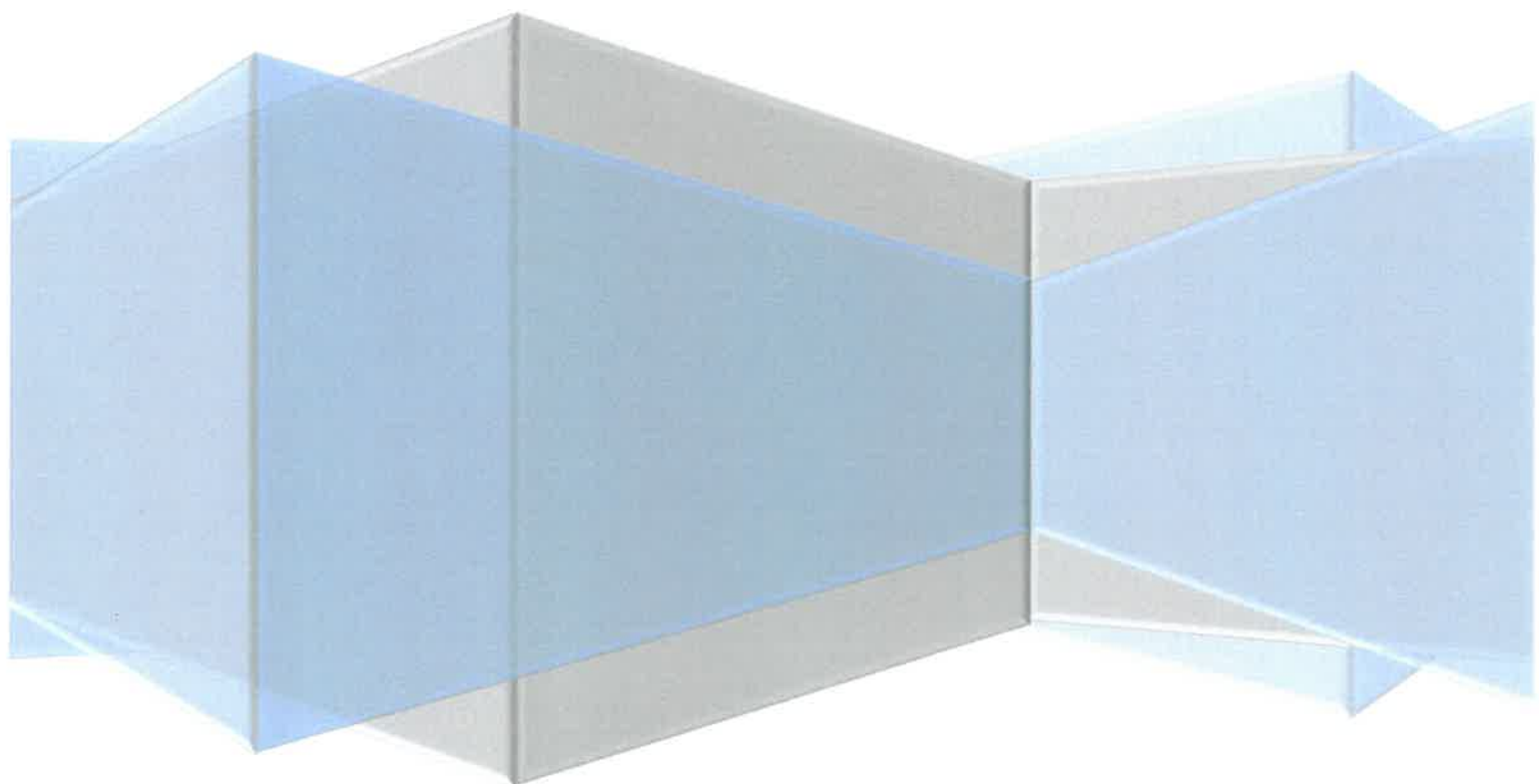


# Freedom of Information

## Treasury Procedures



# FOI Procedures

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The *Freedom of Information Act 1982* (**FOI Act**) provides a legally enforceable right of access to government documents. It applies to Australian Government ministers and most agencies, although the obligations of agencies and ministers are different.

Ministers are subject only to requests for 'official documents of a minister'. This means documents relating to their role as a minister and not personal or party political documents, or documents about their electoral affairs. Ministers are also not subject to some of the proactive publication requirements the FOI Act places on agencies.

The application of the FOI Act to documents 'in the possession of a minister' excludes by implication documents held by a former minister. Those documents may, however, be available under the Archives Act 1983. Where an FOI request is made to a minister and there is a change of minister in the course of the request or an IC review, the new minister is the respondent. If the requested document is not in the possession of the new minister, the FOI Act will not apply as the document is no longer an 'official document of a minister'

## Summary

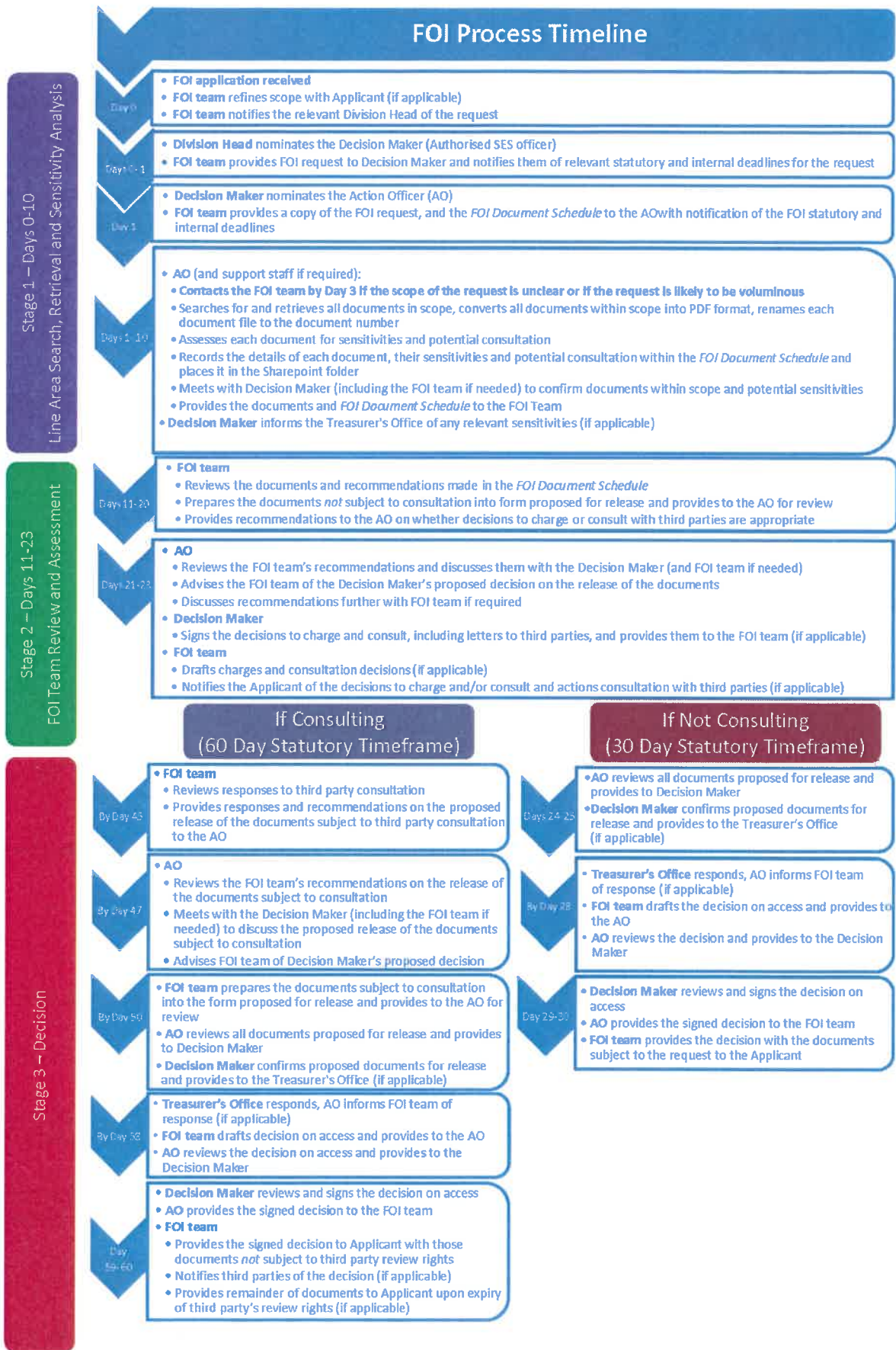
1. The purpose of the Procedure Manual is to provide guidance and promote a consistent approach to the tasks undertaken by the FOI Team within the Department of the Treasury (the **Treasury**).
2. This Manual should be read in conjunction with the FOI Act and the FOI Guidelines published by the Office of the Information Commissioner (**OAIC**). To the extent of any inconsistency the FOI Act takes precedence over the FOI Guidelines and the Guidelines take precedence over this Manual.
3. In certain circumstances, it may be appropriate to depart from the procedures in this Manual. Generally this should only be done following discussion with the Deputy General Counsel or an FOI Officer. It is unacceptable to depart from the procedures in this Manual if the result of such action is that the statutory requirements are not met.
4. The Manual is divided into Stages, each covering different aspects of the FOI process. The table of contents can be used as a series of quick links to each task.

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# FOI Process Timeline Overview



# FOI PROCEDURES

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## 1. Stage 1

The first stage of the FOI process should be completed within 10 calendar days of Treasury receiving an FOI request. The FOI Officer commences the process, by the end of day 2 the relevant division should have been notified and the decision maker nominated. By day 3 the action officer should be nominated and provided with an Action Officer email package. By day 10 the Action Officer should have completed the document search, met with the decision maker, completed the document and consultation schedule and provided the FOI documents and the document and consultation schedule to the FOI team.

### 1.1 Validity

FOI applications are received online, via email and through the post. Each FOI should be reviewed to ensure that it meets the requirements of a valid FOI request.

To be valid a request must:

- be in writing (s 15(2)(a))
- state that it is a request for the purposes of the FOI Act (s 15(2)(aa))
- provide such information as is reasonably necessary to enable a responsible officer of the agency or the minister to identify the document that is requested (s 15(2)(b))
- and must give details of how notices under the FOI Act may be sent to the applicant (s 15(2)(c)).

If the request is **valid** – continue to process the request.

If the request is **not valid** – notify the applicant that the request is not a valid FOI request, explain the requirements of a valid request and, if appropriate, offer assistance (s 15(3)).

If appropriate - the request can be referred to the relevant area of the Department for their action.

### 1.2 Allocate an FOI number

FOI requests are identified by an FOI number. This number is used as the identifier for the FOI request actions, such as reporting, the share point folder, correspondence and the decision letter.

Allocating an FOI number:

Open the FOI register - <http://tweb/sites/cssg/mcd/foi/Reporting/FOI Register>

Select the next available row and FOI number and complete the relevant fields in the register and save. Record the FOI number.

### 1.3 Identify the relevant Division

Review the scope of the FOI request – is it clear which Division(s) have primary responsibility. If not, you may need to phone staff at the EL2 or SES band 1 level to ascertain the relevant (or primary area) to process the request.

If the request is relevant to **multiple divisions** – the discussion on which division has primary responsibility is carried out by the responsible Divisions. This should be done quickly (by day 2 of the FOI statutory timeframe) – you may need to follow up to ensure that the FOI is allocated quickly.

### 1.4 Allocate an FOI team member

FOI team members have primary responsibility to manage the timeframe for FOI requests allocated to them. To be effective no team member should have more than 12 requests at any one time. Inform the team that the request has been allocated to them and record the allocation in the FOI register.

## 1.5 State of Play (SoP)

Add details of request to FOI SOP - [http://tweb/sites/cssg/mcd/foi/Reporting/FOI\\_SOP](http://tweb/sites/cssg/mcd/foi/Reporting/FOI_SOP)

Open the latest document in the folder. Copy the relevant information from the FOI register into the SoP.

Ensure that the SoP is updated for each action taken in processing the FOI request.

Save and exit out of SOP.

## 1.6 SharePoint

Each FOI request has its own share point folder. Create a folder for this request at:

<http://tweb/sites/cssg/mcd/foi/1819cases>

Save a copy of the:

- Initial request from applicant – convert to PDF then save use naming convention – FOI XXXX request
- Save a copy of key FOI documents in this folder, such as :
  - Acknowledgement email
  - Decision Maker email
  - Action Officer email
  - Charges Calculator
  - Document Schedule

Use the naming convention 'FOI XXXX –' before the document title

- As required create the following sub folders, such as:
  - FOI XXXX - Third party Consultation
  - FOI XXXX - PM&C Cabinet Consultation
  - FOI XXXX - Documents
  - FOI XXXX - Decision package
  - FOI XXXX - Internal Review
  - FOI XXXX - External Review

Note - The FOI number needs to be added to the Schedule of all documents and PMC schedule of documents.

## 1.7 Scope the request

Consider scope of the request –

- is it directed to the Treasury, TO, AT, AMTF, portfolio agency, or a different portfolio agency?
- Does the subject matter appear to be more closely aligned to the functions of another agency?
- If the request is not directed to the Treasury alone, or if the subject matter is more closely aligned with the functions of another agency- consider a whole or partial transfer. More information on transferring requests is below at 1.9.
- Is the scope particularly large? For example if:
  - it refers to “all documents relating to”, “all correspondence”,
  - it does not include a timeframe, or includes a wide timeframe, and/or
  - the subject matter relates to functions covered by a number of sections within the Department.

Then it might be too voluminous to process.

- Consider assisting the applicant to revise the scope of the request informally in the first instance
- Consider whether a formal 'request consultation process' under section 24AB of the Act is required. More information on the practical refusal process is below at 1.10.
- Both the informal and formal processes involve assisting the applicant to refine the scope of their request to capture only the specific documents they are interested in. This benefits the applicant by reducing the volume of irrelevant material and amount of charges they may receive and it assists the Treasury to meet our obligations to assist applicants, to manage our resources for processing requests and to manage documents being released.
- If the request appears to be voluminous or may belong to another agency in part or whole – the Decision Maker and Action Office notifications emails should flag the issue for immediate attention.

## 1.8 Divisional, Decision Maker and Action Officer Notification

The Divisional, Decision Maker and Action Officer notification email templates are located at:

[http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole\\_draft\\_templates](http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole_draft_templates)

Send the Divisional notification to the relevant Division SES staff seeking nomination of the decision maker.

Send the decision maker notification email to the decision maker (and Action Officer) with the following attachments:

- Stage 1 - FOI XXXX document and consultation schedule
- Stage 1 - Treasury FOI process flowchart
- PM&C Cabinet consultation schedule

Send the additional attachments if the email is sent to both the Decision Maker and Action Officer

- Stage 1 - Search Retrieval and Sensitivity Analysis Minute
- Stage 1 - Search Checklist
- Guidance note – AO – Stage 1 – FOI Processing Documentation and Management (information document)
- FOI exemptions

If the Action Officer receives a separate email to the Decision Maker include the above 7 attachments to the Action Officer email.

Save copy of the emails to the share point folder with the following naming convention:

- FOI XXXX – Division notification
- FOI XXXX – Decision Maker notification /FOI XXXX Decision Maker and Action Officer notification
- FOI XXXX – Action Officer notification (if not included with the Decision Maker)

If a nomination has not been received from the DM within the first 2 days – follow up directly with the DM.

Arrange a meeting with the AO (and DM if needed) to discuss the FOI process.

**Title of meeting:** 'FOI [number] – Discussion of request'. Location: DM's Office/AO desk.

**The DM and AO need to keep the TO informed of any issues that may affect their interests.**

Update the State of Play and FOI register

## 1.9 Transferring the request to another Department

Section 16 of the FOI Act deals with transferring requests to another Agency.

Section 16 of the FOI Act provides for the transfer of FOI requests between agencies and ministers. A transfer can occur in some circumstances by agreement between agencies or ministers (s 16(1); in other circumstances a transfer is mandatory (ss 16(2)&(3). Transfers can also be made in whole or part.

Treasury transfers normally occur under section 16(1) of the FOI Act. Under section 16 (1) if a request is made to an agency for access to a document and

- a. The document is not in the possession of that agency but is, to the knowledge of that agency, in the possession of another agency; or
- b. The subject-matter of the document is more closely connected with the functions of another agency than with those of the agency to which the request is made;

The agency to which the request is made may, with the agreement of other agency, transfer the request to the other agency.

Use the template The transferring agency must notify the applicant that transfer has occurred (s 16(4).

## 1.10 Applicant Acknowledgement

Acknowledge receipt of the request by sending an acknowledgement email to the applicant within 14 calendar days of receipt of the request.

The acknowledgement should:

- confirm the scope of the applicant's request



- confirm the date the decision is due (pending the issue of charges and third party consultation);
- inform the applicant that the names of government staff below SES level and the direct contact information of all government staff will be treated as out of scope of the request unless the applicant advises that they wish to have this information included;
- duplicate documents will not be provided;
- only the latest version of a document will be considered in scope unless the applicant specifically requests all draft documents;
- where the applicant is seeking to obtain personal or business information on behalf of, or in relation to, a third party, request that they provide evidence of the requisite authority if they have not done so.

The acknowledgement email template is at <http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole draft templates/Stage 1 - Applicant acknowledgement.docx>

Send external emails from the FOI mailbox. Always use the Read and Deliver receipt options when sending decision letters and charges notifications.

### 1.11 Practical refusal

An agency or Minister may refuse a request if a 'practical refusal reason' exists.

A practical refusal reason means that:

- a request does not sufficiently identify the requested documents (s 24AA(1)(b)); or
- the work involved in processing the request:
  - in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations (s 24AA(1)(a)(i)), or
  - in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions (s 24AA(1)(a)(ii)).

The agency or Minister must first follow a 'request consultation process' (set out in 24AB of the FOI Act) before refusing the request.

Prepare practical refusal letter for signature by DM.

The template is at <http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole draft templates/Stage 1 - 24AB letter.docx>

After selecting the appropriate practical refusal reason – complete the required information.

Save draft of letter on SharePoint – FOI XXXX – 24AB letter.

Email the letter to the AO to provide to the decision maker for consideration/signature.

When the signed letter is returned by the DM/AO save to the relevant share point folder. If the letter is returned in hard copy, scan and save a copy to Sharepoint.

Create new email from 'FOI@treasury.gov.au'. Attach the signed letter and forward to the applicant, BCC'ing: DM, AO with the generic email text:

'Please find attached correspondence in relation to your FOI request.'

Clock is stopped at this point for up to 14 days for the applicant to refine the scope.

Update the FOI Register and the SoP and put the date the applicant needs to get back to us by, in the SoP.

The FOI clock restarts when the applicant response is received –

- if the scope is refined to a manageable level the request is processed
- if the scope is not refined to a manageable level – either commence a new 24AB process or refuse the request – the decision maker has the delegation for this

if the applicant does not respond within 14 days – the request is taken to have been withdrawn by the applicant and closed.

### 1.12 AO Meeting

Schedule a meeting with the AO (and potentially the DM) between days 5 and 7 of the FOI timeframe. Hold the meeting earlier if the AOs and/or DM are unfamiliar with the FOI process, the request is unclear/ voluminous/ complex or requires co-ordination between multiple divisions.

The purpose of this meeting is to:

- provide information on:
  - the FOI process
  - statutory timeframes
  - the Roles of the AO, DM and FOI team
  - templates provided to the DM and AO
  - document searches, completing the document and consultation schedule and providing documents within the FOI scope
- remind the AO that **the DM and AO need to keep the TO informed of any issues that may affect their interests.**
- Discuss:
  - The scope of the request – valid? Can it be processed? Is it unclear/voluminous/complex?
  - Practical refusals
  - Whether the request should be transferred to another Department

and respond to questions.

### 1.13 Cabinet Exemption Email to PM&C

If the AO provides advises PM&C Cabinet consultation is required. Ensure they provide the Cabinet consultation schedule and documents – then action immediately.

Create a new subdirectory in SharePoint for the PM&C Cabinet consultation – save the PMC Schedule of documents and the consultation documents to that SharePoint sub directory.

Draft an email to PM&C – Subject: [FOI reference] – PM&C Cabinet Exemption Consultation

Ensure that the text advises the date you require a response.

Attachments

- PM&C Schedule of Documents; and
- Documents provided from AO for Cabinet consultation

Send to FOI@PMC.gov.au; CC'ing DM, AO and relevant PLSU officers

Save the email to the SharePoint sub directory

### 1.14 Cabinet Consultation Response from PM&C

Review the response. Update the document and consultation schedule with the consultation response.

Send an email to the DM and AO – summarise the Cabinet Consultation response. Attach the updated document and consultation schedule and the PM&C Cabinet schedule and advise if further action is required or whether for information at this stage.

Save a copy of the PM&C response in the relevant SharePoint sub directory.

## 1.15 calculating timeframes

The FOI clock starts with a request is received by the Department. The Department is required to process valid requests within 30 days after the day a request was received.

This 30 day processing period may be extended under certain circumstances, for example, where the Department decides it reasonable to consult with third parties. If the processing period is extended, the applicant will be informed of the extension and the reasons for it.

The FOI clock stops for a 24AB (request consultation process) and charges and restarts at the end of the process. The FOI clock is extended by 30 days for formal consultation. It can also be extended by agreement with the applicant for up to 30 days and the information commissioner can make a decision to extend the FOI clock for a specified period of time. The FOI clock is not stopped or extended for informal consultation on the FOI scope.

The current matters table automatically calculates the FOI clock – the macros behind the calculations calculate the initial 30 days plus - an additional 30 days for consultation (if applicable); time between the clock stopping for charges and charges being paid (if applicable); time between a 24AB letter being emailed and the scope being refined (if applicable); and additional time provided under s15AA and/or 15AB (if applicable). The calculations do not take into account weekends and public holidays. If the statutory deadline falls on a weekend/public holiday the deadline moves to the next work day. The excel spreadsheet is at:

<http://tweb/sites/cssg/mcd/foi/Reporting/FOI Register/FOI current matters table 2018-19.xlsx>

At the end of stage 1 – the action officer has completed the document search, met with the decision maker to discuss the scope of the FOI request and the FOI documents and provided the completed document and consultation schedule, checklist and documents to the FOI team. If the request contains Cabinet information – PM&C are consulted on Cabinet documents.

## 2. Stage 2

The second stage of the FOI process should be completed by Day 23. The FOI team are primarily responsible for the Stage 2 actions. It commences from when the AO provides the stage 1 package (document and consultation schedule, documents and completed checklist). Key actions in this stage are: reviewing the documents, charges and consultation and preparing documents for release (documents not subject to consultation). The AO may be contacted to provide further information.

### 2.1 Review documents

The DM or AO will provide: a completed checklist; a completed document and consultation schedule and the documents subject to the FOI request.

Before you start processing these documents there are a few preliminary checks for review –

Did the AO name the documents correctly, save them as pdf documents and input them into the document schedule? If not – send back to the AO for urgent action.

Check the schedule and documents for:

- Cabinet documents – if there are any Cabinet documents – ensure that the AO completes the PM&C Cabinet schedule and actions urgently as the PM&C consultation takes 7+ days.
- Review the proposed third party consultations in the document schedule – are these required (if there is a reasonable expectation that the third party could be harmed by the release of the information and that it may be against the public interest to release that information - consultation should occur)
- Third party documents – have all third party documents/information for consultation been identified in the schedule – check with the AO if third party consultation has not identified in the schedule.
- Documents that originated from other Commonwealth Departments or contains information that affects the interest of other departments – should a courtesy consultation occur (or should we consider a partial transfer)
- Have all the documents been provided? Are there gaps in the documents provided? Are there references to other documents that could potentially be within scope of this request that were not provided?
- Consider whether an IT search is required and/or whether there are areas within Treasury that potentially have documents that have not been consulted.
- Has sufficient information been provided on document sensitivities to identify the information and expected harm if the information was to be released

If you are satisfied that all documents have been provided and all third parties identified. The documents should be reviewed and marked up for redaction.

Reminder - In line with the objects of the FOI Act applicants have a right to information unless there are genuine sensitivities in a document that give rise to exemption(s) under the FOI Act and it would be against the public interest to release.

Save the emails and document schedule in the relevant SharePoint folder

Create a subdirectory titled FOI documents - save the FOI documents in the SharePoint subdirectory

Mark the documents up with initial proposed redactions (if applicable at this stage – see the Adobe Professional information attached to this process manual).

Liaise with the AO as often as needed to complete Stage 2.

### 2.2 Cabinet documents

If Cabinet documents have been identified and consultation is required - see Stage 1 steps 1.13 and 1.14.

Note further consultation must occur with PM&C if PM&C advised a document is exempt under s 34 and the decision maker intends to release that document.

Save the emails and the Cabinet consultation schedule in the SharePoint folder.

## 2.3 Formal Consultation with Third Parties

An agency or minister may need to consult a third party where documents subject to a request affect Commonwealth-State relations (s 26A and s 47B), are business documents (s 27 and s 47 and 47G), are documents affecting another person's privacy (s 27A and s 47F) or international relations (s 15(7) and (8) and s 33). Where formal consultation is required an additional 30 days is added to the statutory timeframe (60 day statutory timeframe).

The FOI decision maker is authorised to make consultation decision. The third party consultation letter templates are at: [http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole draft templates](http://tweb/sites/cssg/mcd/foi/Skeleton/Nicole%20draft%20templates)

Under s 26A, Commonwealth-State relations consultation must occur if the document originated with the State, contains State information or other information that the State may wish to contend is exempt, unless the information is publicly available or it is clear that the State would not object to the release of information.

Under s 27 and s 27A, business and personal information consultation should only occur if there is a basis which indicates that disclosure of the document would, or could be expected to, unreasonably affect the person or business adversely in relation to his or her personal information, lawful business or professional affairs. The mere appearance of a person's name in the document or business information that is publicly available or could reasonably be ascertained from the type of business and/or publicly available information would not be sufficient to require consultation.

Under s 15 (7), international relations, consultation is undertaken with a foreign government or authority or an international organisation to assist them in deciding whether the document is exempt section 33(a)(iii) or 33(b). There are no review rights for the international relations exemption.

Steps:

- Review the document and consultation schedule – check whether consultation is required on the documents recommended for consultation.
  - If not – note the reasons in the document schedule (this will be provided to the AO)
  - If required – prepare the relevant third party consultation letter template for each third party
- Review the documents – have any consultations been missed? If so, update the document and consultation template and prepare the consultation letter(s)
- Prepare the template letter to the applicant advising that the deadline will be extended by 30 days for consultation
- Email the update document and consultation schedule, applicant letter and the third party consultation letters and third party consultation documents to the AO for review (if charges are recommended the consultation and charges are normally processed together).
- The AO organises for the decision maker to review/sign the final consultation package (applicant letter, third party letters and third party consultation documents) then provides the signed letter to the FOI team to email.
- Save the applicant notification, consultation letters and documents and emails to the relevant SharePoint folder.

## 2.4 Informal Consultation with other Departments/Agencies/Ministerial Offices

In some instances we ring other Departments to find out if they have received the same request from the same applicant or other applicants so that a co-ordinated approach can be taken.

If a document is relevant to another Department/Agency/Ministerial Office consider whether courtesy consultation should occur. Courtesy consultation occurs between department/agency FOI officers.

If a courtesy consultation is required with a Minister's Office from another portfolio – check with the Treasurer's Office and/or the portfolio agency as to who is the appropriate coordination point.

The courtesy consultation does not require a formal DM determination. Both the DM and AO should be consulted before information consultation is undertaken – by email (or agreement to the proposed consultation via the document schedule)

There are no review rights with informal consultation responses.

Save the consultation emails and documents in the relevant SharePoint folder.

## 2.5 Consultation responses

Review the third party consultation responses – did the third party object to the release of the document? Does the response change any of the decision recommendations? Is further information required from the third party? Can it be provided to the AO or is further work on the decision outcome required?

Review the responses and consultation documents and provided to the AO with recommendations.

Where multiple consultations occur – save the responses in SharePoint.

Collate the responses into the document and consultation schedule

If required update the proposed document redactions

If required update the document and consultation schedule decision recommendations.

Email the document and consultation schedule, third party consultation responses and updated consultation documents to the AO for consideration.

Consider whether it is appropriate for the AO to provide the final version to the DM for a decision outcome at this stage or whether it should be provided at Stage 3.

## 2.6 Charges Calculator

The DM or AO will send through a completed schedule of documents.

Save this email in Sharepoint case file – FOI XXXX – Schedule of documents.

Request information from the AO on how long the search and retrieval actually took

Using the information provided in the schedule of documents, complete the ‘charges calculator’ saved in the SharePoint folder for your FOI case. Include:

- Search and Retrieval time;
- Number of relevant files;
- Number of relevant pages;
- Number of relevant documents;
- Number of fully exempt pages;
- Number of pages released with deletions (redactions required); and
- Number of formal third parties being consulted.

Prompts are included in the calculator advising which information is to be inserted.

If the charges amount and processing timeframes are more than 5 hours, check with the AO whether the decision maker wants to issue charges.

Save the charges calculator to SharePoint.

## 2.7 Notify Charges

An agency or minister may impose a charge for providing access to a document under section 29 of the *Freedom of Information Act 1982* (FOI Act). The charge must be assessed in accordance with the *Freedom of Information (Charges) Regulations 1982* (Charges Regulations).

If the authorised decision maker decides that charges are payable - the applicant is formally advised of the charges estimate via a charges letter or charges and consultation notification letter.

If the Decision maker wants to issue charges –

Open the template charges letter and update to include:

- Applicant name and email;
- FOI reference;
- Date of initial request;
- Scope of the request;
- Charges to be applied;
- Any sections requiring further information;
- Decision maker information in the signature block.

If formal third party consultation is also being undertaken – include the third party consultation text in the charges letter.

If the applicant has already been notified of the third party consultation – update the statutory deadline to 60 days instead of 30 days.

Save the document in current FOI case SharePoint folder – FOI XXXX –Charges notification (this prevents the skeleton document accidentally being saved with changes).

Email the charges letter to the AO for review and providing to the DM for signature. Also attach the charges calculator and the document and consultation schedule to the email – background information.

The charges letter should be signed within 1-2 days. Follow up if required.

When signed –

- email the charges (and consultation) letter to the applicant, CC the FOI inbox, BCC the DM
- save the signed letter in SharePoint
- Update the State of Play

Once the charges letter has been issued the 'clock stops' against the decision due date until payment has been received (in full or deposit).

The applicant has 30 day to pay the charges –

- If payment is made in full/part the 'clock restarts'
- If the applicant disputes the charges – the DM has 30 days to respond
- If the applicant does not respond on/by day 30 the FOI request is deemed to have been withdrawn. Send an email and advise the DM and AO.

*Note - The charges letter is issued at Stage 2 of the FOI request as the charges estimate are more accurate. Previously, the charges letter was issued within the first 7 – 10 days of receiving the request which led to a significant amount of refunds being issued.*

## 2.8 Paid in Full/Deposit

Once the FOI team receive the applicant's payment the following steps apply:

- Save the completed charges form for the payment in the relevant SharePoint folder.
- Send an email to the AO (cc the Decision Maker) – to advise payment and the new statutory deadline and to request the relevant cost centre number. The funds will be deposited into the AO cost centre.
  - save the email response with information in the sharepoint folder
- Create a ticket in Treasury assist –
  - Select – Purchasing and Payments
  - Select – Issue an invoice to an external party
    - : Affected user – FOI Officer name and phone number
    - : Description of request:  
FOI XXX credit card payment
    - : Amount –amount
    - : Cost centre - AO cost centre
    - : Payment urgency – that day
    - : Attachments added – completed charges form
    - : Contact name and address of external party – enter FOI applicant name, address (if known), email address and phone (if known)
- Once the payment is processed – email a copy of the receipt to the FOI applicant.
  - Save a copy of the receipt in the sharepoint folder

Advise the AO the next steps required to process the request.

## 2.9 Applicant Contests Charges

If applicant contests charges, a response needs to be provided to the applicant within 30 days of receipt. The clock remains 'stopped'.

Save a copy of the applicant email in SharePoint.

Forward email/letter to DM and AO.

AO to meet with the DM to consider the charges decision and advise the FOI team.

FOI Team to draft contesting charges letter.

Draft decision letter and send to AO for review.

AO to provide the final version to the DM for consideration/signature.

AO emails the signed letter is returned to FOI officer - save in Sharepoint.

FOI team email the signed charges decision to the applicant.

The applicant has 30 day to pay the charges –

- If payment is made in full/part the 'clock restarts'
- If the applicant seeks an internal review of the charges – the IR DM has 30 days to respond
- If the applicant does not respond on/by day 30 the FOI request is deemed to have been withdrawn.  
Send an email and advise the DM and AO.



## 2.10 Prepare documents for release

The documents are saved in the 'FOI XXXX FOI documents' subdirectory.

Review the documents and mark them up with proposed redactions – see the attachment on Adobe professional for information on setting up Adobe Professional and marking up documents.

Review each document – consider the sensitivities identified by the AO in the document and consultation schedule, the third party consultation responses and your own review of the documents.

Update the document and consultation schedule with the proposed release of that document

On the top right hand of the first page of each document title the document 'FOI XXXX Document XX'.

Save the mark up documents.

Send the marked up documents and the document and consultation schedule to the AO for review. This may take a couple of goes as further redactions may be needed.

## 2.11 Extension of time with applicant agreement (15AA)

If a request is not able to be processed within the 30 day time period. An extension of time can be sought from the applicant for a further period of up to 30 days. The applicant must be contacted and agree to the extension in writing. The OAIC must be given written notice of the extension as soon as practicable after the agreement is made.

Save a copy of the agreement to SharePoint and Update the SOP and Register.

The OAIC can be notified online via a smart form or email, guidance can be found here:

<http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-13-extension-of-time-for-processing-requests>

Once the confirmation is received from the OAIC the type of extension and OAIC reference number needs to be noted in the Register.

## 2.12 Extension of time without applicant agreement (15AB)

If a request is not able to be processed within the 30 day time period and the applicant has not granted an extension of time. An extension of time can be sought directly from the OAIC for a period of 30 days, or such other period as the IC considers appropriate.

These extensions are usually applied for because the request is complex or voluminous. Guidance on how to apply can be found here: <http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-13-extension-of-time-for-processing-requests>

Once the approval is received from the OAIC the type of extension and OAIC reference number needs to be noted in the FOI Register and the SoP updated.

## 2.13 Request Deemed Withdrawn – charges not paid/24AB – scope not refined

If no response is received from the applicant within 30 days of providing a charges letter, the request is deemed withdrawn and the request is closed. Update SOP with comment “[date] no response received from applicant – deemed withdrawn” Decision is ‘Deemed withdrawn’.

If no response is received from the applicant within 14 days of sending the intention to practically refuse letter, the request is deemed withdrawn. Update SOP with comment “[date] no response received from applicant – deemed withdrawn”. Decision is ‘Deemed withdrawn’ and the date noted.

Send an email notification to the DM and AO advising that the request is deemed to have been withdrawn and closed. Update SoP and save all relevant documents to SharePoint.

At the end of Stage 2 – the FOI team have marked up the FOI documents with proposed redactions, charges are paid (if applicable) and third party consultations have been completed. You should have also considered whether the statutory timeframe can be met or whether an extension of time is required.

### 3. Stage 3

The third stage of the process is slightly different depending on whether the FOI request involves formal consultation. If the FOI process did not involve consultation – the documents should already be marked up with proposed redactions and the proposed decision outcome should be ready to provide to the DM at the start of Stage 3 – with 7+ days left on the FOI clock. If formal consultation occurred, you may have a couple of weeks left on the FOI clock to finalise the process, mark up the documents and draft the decision outcome.

#### 3.1 Proposed release of Documents

If any third party consultation responses were not received by the end of stage 2 – you may need to complete marking up the documents with proposed redactions for release.

The documents are saved in the 'FOI XXXX FOI documents' subdirectory.

Review the documents against the third party consultation objections to their release. Contact the AO for further information as required.

Mark up the documents with proposed redactions – see the attachment on Adobe professional for information on setting up Adobe Professional and marking up documents.

Review each document – consider the sensitivities identified by the AO in the document and consultation schedule, the third party consultation responses and your own review of the documents.

Update the document and consultation schedule with the proposed release of that document

On the top right hand of the first page of each document title the document 'FOI XXXX Document XX'.

Save the mark up documents.

Send the marked up documents and the document and consultation schedule to the AO for review. This may take a couple of goes as further redactions may be needed.

Save copy to Sharepoint.

**Remind the DM and AO that they need to keep the TO informed of any issues that may affect their interests.**

### 3.2 Decision Outcome

Draft the proposed decision letter, finalise the redactions in the FOI documents, finalise the document schedule and draft third party access decision letter. Provide the decision package to the AO for action.

The decision templates are at:

AO to review the decision package, organise a meeting with the DM to discuss the decision package and provide the decision package to the DM for consideration/signature, and then email the signed decision letter to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au).

AO/DM to phone the TO to discuss the decision - **DM and AO that they need to keep the TO informed of any issues that may affect their interests.**

FOI team to include the decision in Wednesday's upcoming release email and attach the documents for release.

At 4pm on Friday, the FOI team emails the decision package to the applicant, third party access decision letter (and documents) to any relevant third parties and updates the disclosure log.

FOI team also save a copy of the decision package in SharePoint, update the SoP and FOI Current Matters Table

#### **NB. Charges**

Applicant only gets the documents if charges have been paid in full. If deposit only has been received the applicant will receive the decision letter and schedule of documents only.

Do not update the disclosure log until the charges are paid and the documents are released to the applicant.

#### **NB. Third Party Review Rights**

If the third party objected to the release of documents and the DM makes a decision to release that information – the documents are not released to the applicant until the third party review rights have expired.

The third party receives an access decision letter and the redacted documents as they are proposed to be released. The third party then has 30 days to seek an internal or external review. If the third party does not send an IR – phone the OAIC to check in an ER was submitted. If not – release the documents to the applicant and update the disclosure log.

### 3.3 Third Party Access Decision Notification

If the third party objected to the release of documents that affect their interest and the decision maker decides that the third party objection does not give rise to an exemption under the FOI Act – the Third Party is to be notified of the decision and provided with the documents as they are intended to be released.

The documents **MUST NOT** be released to an applicant until the third party review rights have expired.

The third party has 30 days to seek an internal review of the FOI decision – either by an Internal Review or Information Commissioner review.

If the third party has not requested a review during this period the documents can be released to the FOI Applicant.

The relevant FOI Officer should phone the Office of the Information Commissioner to ascertain if an Information Commissioner review has been requested before releasing the documents.

If an Internal Review has been requested – proceed to Stage 4.

If an Information Commissioner review has been requested – advise the applicant that the third party has sought an Information Commissioner review and the documents cannot be released until their review rights have expired – refer the applicant to the Office of the Information Commissioner if they seek further information.

### 3.4 Disclosure Log

The decision package is emailed and the disclosure log is updated after 4pm on Friday.

As Treasury only releases on a Friday release may occur 6 days before the statutory deadline. This means that the upcoming release email will be sent 8 days before the statutory deadline on day 22. The timeframes are extremely tight.

Prepare the mock up on Friday morning via Treasury Assist.

In Treasury Assist, select 'Publishing, Design and Web'

Then 'Change to Existing Webpage'

Page Title is what you will see on the disclosure log – look at previous examples

The description of request provides information on the documents – look at previous examples

Page URL is the link to the disclosure log

Website - Treasury

Deadline is same day

After completing Treasury Assist phone Ben to request he action it immediately.

Once completed you will be provided with a link to the mock-up – review and send to the AO for final review and DM approval.

When the decision package is sent to the applicant – the disclosure log should be updated – Reply to the mock up email and phone Ben to request the disclosure log be updated.

## 4. Stage 4 - Internal Review of Access Grant / Access Refusal decision

A person who is not satisfied with a decision on a request for documents, or for amendment or annotation, may request an internal review by the agency of an 'access refusal' decision (in the case of the FOI applicant - s 54(2)) or an 'access grant' decision (in the case of an affected third party - s 54A(2)).

### 4.1 Applicant Internal Review of the Primary Decision

If an applicant does not agree with the decision they receive they can seek an internal review within 30 days (or 15 days after receiving the document if the document is held back and then released at a later date). The Dep Sec for the Group who made the original decision, as well as the DM, AO and GC are to be advised that an internal review has been requested.

A meeting should be arranged with the Dep Sec, DM, AO and FOI Team within the first few days. Discussion and course of action will be decided at this meeting. Then process along similar lines to a normal request.

The decision must be made and provided to the applicant within 30 days from receipt of the request for internal review; the decision maker is an SES band 3 - Dep Sec. It can be helpful to look at similar internal review requests and provide these examples to the decision maker. This information can be found via the FOI Register.

If a decision is made to provide greater access to documents that affect the interests of one or more third parties, those third parties must receive a IR notification of access decision letter and be provided with the documents as they are proposed to be provided to the applicant. The third party has 30 days to seek an IC review of the decision.

The applicant receives the decision letter and documents that do not affect third party interests. They must NOT receive third party documents until the third party review rights have expired. They do, however, receive the IR decision letter and documents that do not affect third parties. The decision letter must inform the FOI applicant the third party documents will not be provided until the third party review rights have expired.

At the end of the third party review period, the documents are provided unless the third party seeks an IC review of the decision. If the third party seeks an IC review – inform the FOI applicant and refer the FOI applicant to the OAIC for further information. The documents cannot be released until all review rights have expired.

Update SoP. The request needs to be added to the Applications for Internal Review section on the SoP and updated with actions and the decision.

Add the IR information to the FOI Register, record actions in the register and update the register with the IR decision at the end of the process.

SharePoint - create an Internal Review subfolder under relevant FOI request. Save emails and documents to this subfolder in SharePoint.

## 4.2 Third Party Internal Review of the Primary Decision

If a third party does not agree with the decision notification granting access to document they have 30 days to seek an internal review. The Dep Sec for the Group who made the original decision, as well as the DM and AO are to be advised that a third party internal review has been requested.

A meeting should be arranged with the Dep Sec, DM, AO and FOI Team within the first few days. Discussion and course of action will be decided at this meeting. Then process along similar lines to a normal request.

The decision must be made and provided to the third party applicant within 30 days from receipt of the request. The decision maker is at the SES band 3 level - Dep Sec. It can be helpful to locate similar third party internal review requests and provide these examples to the decision maker. This information can be found via the FOI Register.

Notify the FOI applicant of the third party internal review and the expected timeframe for a decision. The FOI applicant should be provided with an IR decision notification letter/letter with advice that the third party has 30 days to seek an IC review. The third party documents cannot be provided to the FOI applicant until all review rights have expired.

Update SoP. The request needs to be added to the Applications for Internal Review section on the SoP and updated with actions and the decision.

Add the IR information to the FoI Register, record actions in the register and update the register with the IR decision at the end of the process.

SharePoint - create an Internal Review subfolder under relevant FOI request. Save emails and documents to this subfolder in SharePoint.

Note that applicants can seek an Information Commissioner Review of the Primary decision or the Internal Review decision.

## 4.2 Applicant Internal Review of Charges

If an applicant does not agree with the decision they receive they can seek an internal review. The Dep Sec for the Group who made the original decision, as well as the DM and AO are to be advised that an internal review has been requested.

A meeting should be arranged with the Dep Sec, DM, AO and FOI Team within the first few days. Discussion and course of action will be decided at this meeting. Then process along similar lines to a normal request.

The decision still needs to be made within 30 days from receipt of the request for internal review and the decision letter will be signed by the Dep Sec. It can be helpful to look at other requests that sought internal reviews. This information can be found via the FOI Register.

Update SOP. The request needs to be moved to the Applications for Internal Review section on the SOP.

Update FOI Register once the review is complete update FOI Register.

Save emails and documents to SharePoint.

## 5. Reporting

### 5.1 Monday State of Play email

The FOI officers circulate a weekly State of Play (SoP) each Monday afternoon. The email is sent to: FOI@TREASURY.GOV.AU; ExecutiveCommittee@treasury.gov.au; TreasurySESStaff@TREASURY.GOV.AU; MediaLiaison@TREASURY.GOV.AU; Shannon.Kenna@treasury.gov.au; Daniel.Caruso@TREASURY.GOV.AU; [Cosimo.Thawley@TREASURY.GOV.AU](mailto:Cosimo.Thawley@TREASURY.GOV.AU)

CC: Simon.Writer@TREASURY.GOV.AU; EAsandACs@TREASURY.GOV.AU; AllDLOs@treasury.gov.au

TITLE: FOI State of Play – (Date)

TEXT:

Good afternoon

Please find attached the current Freedom of Information (FOI) State of Play report, as at (Date).

Treasury currently has XX FOI applications, XX internal reviews and XX Information Commissioner reviews. The Treasurer's Office has XX current FOI requests.

New requests

FOI XXXX – (applicant)

(Scope)

FOI XXXX, XXXX and XXXX have been finalised.

Regards

### 5.2 Wednesday upcoming FOI release email

The FOI officers circulate an upcoming FOI release email on Wednesday afternoons (for FOI documents being released that Friday). The email is sent to:

ExecutiveCommittee@treasury.gov.au; Daniel.Caruso@TREASURY.GOV.AU; [Cosimo.Thawley@TREASURY.GOV.AU](mailto:Cosimo.Thawley@TREASURY.GOV.AU)

CC: All DLOs; FOI; Media Liaison; Kenna, Shannon; Writer, Simon; (Decision Makers and Action Officers of FOI decisions being released on Friday)

Title: Upcoming FOI releases – (Date)

TEXT: Good afternoon,

The following FOI decisions are scheduled for release this Friday, (Date). Documents for intended release are attached.

**FOI XXXX**

(FOI Scope)

**Decision maker:** (name)

**Decision:** Release XX Documents in full and XX Documents in part with information redacted under sections XX of the FOI Act.



### 5.3 OAIC Statistical Reporting

The FOI officer completes quarterly and annual FOI statistics online at: [Foistats.oaic.gov.au](http://foistats.oaic.gov.au)

User name: TreasuryFOI

Password:

Statistics are completed for the following:

- Treasurer
- Department of the Treasury
- Australian Reinsurance Pool Corporation
- Companies Auditors and Liquidators Disciplinary Board
- Financial Report Council
- Takeovers Panel
- Assistant Minister for Treasury and Finance
- Assistant Treasurer

#### *Quarterly return*

The quarterly report information is obtained from the 'foi current matters table 2018-19' (change to 2019-20 for the new financial year). The document is located at [http://tweb/sites/cssg/mcd/foi/Reporting/FOI Register/FOI current matters table 2018-19.xlsx](http://tweb/sites/cssg/mcd/foi/Reporting/FOIRegister/FOI%20current%20matters%20table%202018-19.xlsx)

The excel spreadsheet contains information that transfers directly into the OAIC quarterly report. It is important that you record additional information on the number of documents released in full, part, exemptions used, information on 24AB and transfers in this spreadsheet for the OAIC reporting (and the internal reports).

Complete and close the excel spreadsheet for the relevant quarter before you start the OAIC quarterly report for that quarter.

#### *Annual return*

There is no exact science for completing the annual statistical returns.

For the number of staff per request – count the FOI team for staff who spend more than 75% of their time on FOI work.

For staff who spend less than 75% of their time on requests – use the excel spreadsheets –

SES officers – count the number of decision makers (do not duplicate)

Allow 2 APS6-EL2 staff for each request plus an additional staff member for the duplicates

Support staff – one per request (including duplicates) – this covers EAs, grads and other support staff.

Then add the number of staff together and put this figure in the annual return for number of staff.

Hours spent processing FOI requests:

I base the Department's response on the number of FOI requests completed as follows:

- SES officers – 10 hours per request
- APS 6 to EL2 officers – 20 hours per request
- Support staff – 9 hours per request
- MO advisers – 2 hours per relevant request (where it is appropriate to consult the MO)

The numbers are obtained from the excel spreadsheet – count the number of completed FOI requests for each quarter and add together.

## Attachments

### Attachment A - Meeting with Decision-Maker

#### Quick Questions

1. Is the request a valid FOI request? Refer to section 15.
  - 1.1. Is it a request for information or documents? (s15(1))
  - 1.2. Does it state that it is an application for the purposes of the FOI Act? (note – if sent to the FOI inbox and otherwise complies, better approach is to assume it is valid)
  - 1.3. Are you able to identify what docs are sought? See 15(2)(b)
  - 1.4. Has it been sent to the correct location? – ie. the FOI inbox (s15(2A)). If not, the better approach would be to say that it has not been received until it has been directed to the correct place (eg. when an individual staff member notifies the FOI inbox).
2. Is the request one that should be processed by Treasury? – or should it be transferred to another agency?
3. Do we think another agency may have received the same request?
4. Is the scope of the request clear?
5. Should the request be handled outside of FOI? Eg. are the documents requested publicly available? Can then provide info to applicant and ask them to withdraw
6. Is the document requested due to be publicly released by Government?
7. Is the request a 'substantial and unreasonable diversion of resources'?
8. If the request can be processed, division will need to commence search for documents. Are there any other divisions that may hold documents relevant to the request?
9. Have any other agencies received similar requests? – eg. PM&C; Finance; or ATO/ portfolio agencies?
10. Will we need to consult with PM&C (is it likely that there may be Cabinet documents (or documents that are 'close' to Cabinet processes)? **These documents must be provided ASAP and sent to PM&C (even before charges paid).**
11. Will we need to consult with any other third parties outside Cth govt (businesses, individuals, States, foreign govts)? Note: additional 30 days to process request (60 days if with foreign govt).
12. Will we need to do 'courtesy consults' with other agencies/ anyone else?
13. Work through **Process Map** and discuss timing of each stage (eg. search & retrieval, charges letter, decision letter, when decision must be finalised, Friday release policy).
14. Check potential due date for request – does it clash with significant event? (eg. Budget, MYEFO), so do we need to ask for an extension?
15. Check workload of division – should we consider requesting an extension from applicant/ OAIC?

**Setting up Adobe professional for FOI document redactions and release**

Adding the 'Text box' to the Quick Tools Toolbar.

*This is used for each document in the document – we record the FOI number and the Document number in the text box on the top of the first page of each FOI document.*

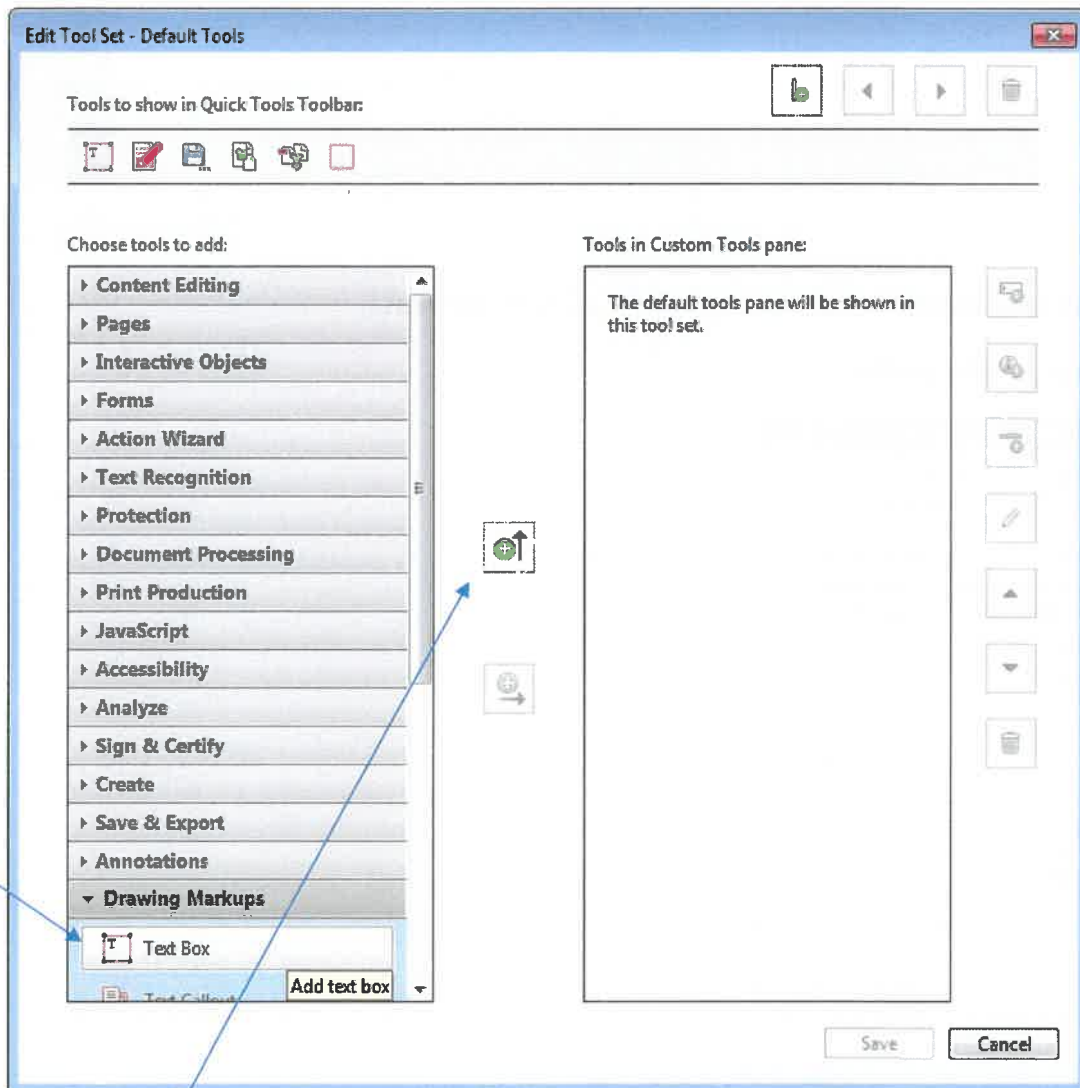
Edit the quick tools tool bar –

Right click on the tool set at the top of the page (under the menu options)



The edit tool set – default tools options will appear

In the Choose tools to add – select the Drawing Markups then 'Text Box' then click the '+ upwards arrow' to add the tool the Quick Tools Toolbar. The textbox tool now appears in your toolbar.

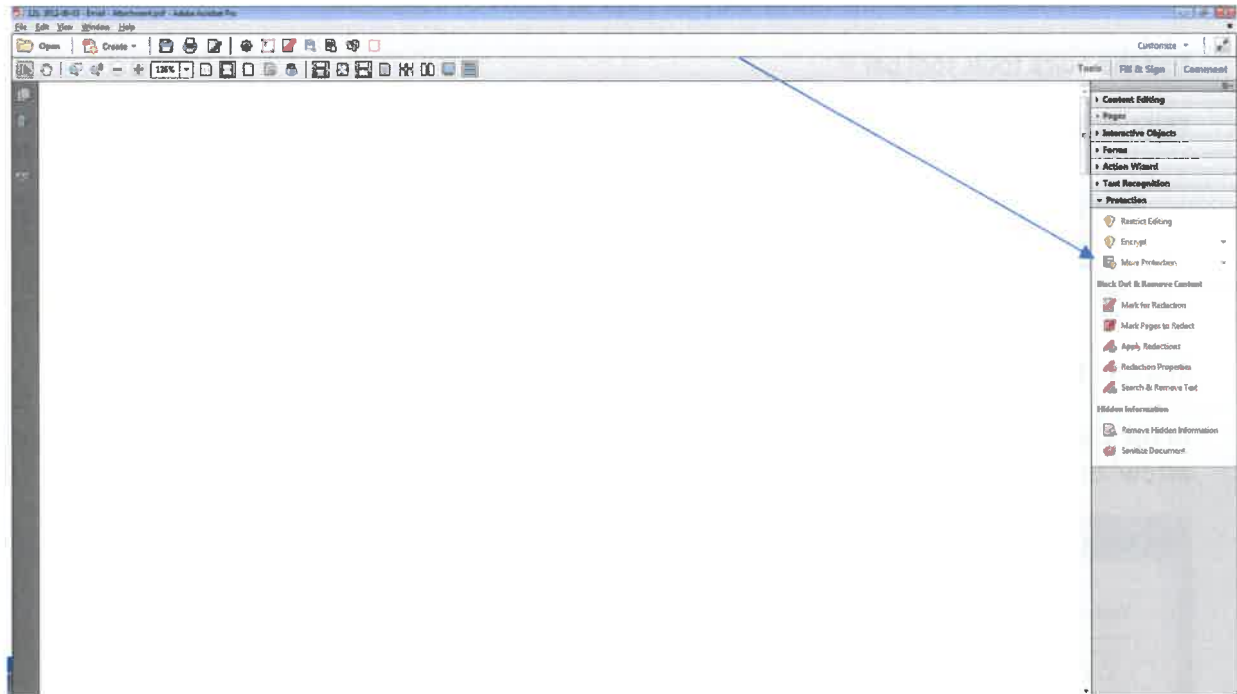


## Setting up the FOI redaction codes for FOI documents.

To set up document redactions:

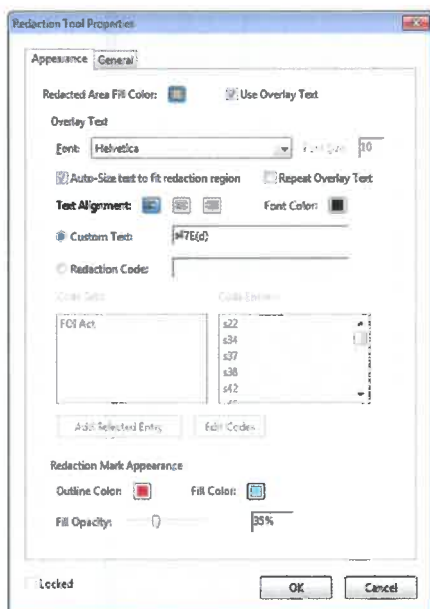
*This is used to mark up proposed redactions in FOI documents.*

At the top of the right hand side of Adobe Professional - Select 'Tools' then 'Protection'



A drop down list appears containing the tools we use for redactions.

Select 'Redaction Properties'



The redaction properties should be set as follows:

Redacted area fill code: 'grey'

Tick the 'Use overlay text' box ✓

Font colour 'black'

Tick the 'Auto-side text to fit redaction region' box ✓

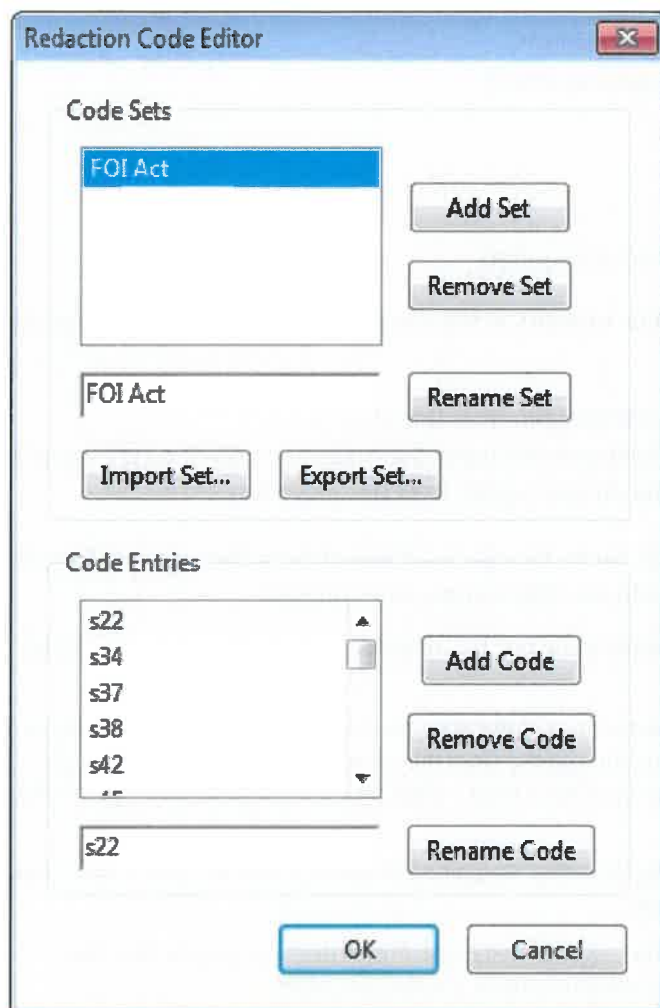
Custom text (select the redaction code you are using the majority of the time for the current document set)

Redaction Mark Appearance – outline colour 'red' fill colour 'aqua' and fill opacity approx. '35%'

Then:

Click on the 'Redaction Code'

Go to 'Edit codes'



Remove the default US code sets.

Then select 'Add Set'

in the rename set text box name the set 'FOI Act' and click on 'rename set' this changes the document set name (if you do not click the 'rename set' button repeat this step)

In 'Code Entries'

Add codes:

Click on 'Add Code' then in the rename code text box name the code to the FOI exemption and click on 'Rename Code' - repeat this step for each FOI code you need to add.

The stand FOI codes to add are:

- s22 (Irrelevant to the request)
- s33 (International Relations)
- s34 (Cabinet)
- s42 (Legal Professional Privilege)
- s45 (in Confidence)
- s47 (Trade Secrets and Commercially Valuable information)
- s47B(a) (Commonwealth State relations - damage)
- s47B(b) (Commonwealth State – communicated in confidence)
- s47C (Deliberative process)
- s47E(c) (Operations of Agencies – personnel management)
- s47E(d) (Operations of Agencies – substantial adverse effect)
- s47F (Personal Privacy)
- s47G(1)(a) (Business – unreasonable effect)
- s47G(1)(b) (Business –information sharing)

Further redaction codes can be added/removed as required.

Once you have added the text box to your quick toolbars at the top and the FOI redaction codes you are ready to work in document sets.

### *Hints for using Adobe Professional when working on FOI Documents:*

Step 1: Select the 'add text box' icon in the quick toolbar on the top of the screen and place it on the top of the document then type the FOI number and document number (eg FOI XXXX Document XX).

Step 2: Then ensure the protection tool in the tools bar on the right hand side of the screen is open. To start redacting text – click on 'Mark for redaction' and add the redaction box when needed:

- You can hold the control button while highlighting the text for redaction to select the size box needed (instead of line by line redacting)
- You can change the redaction code in a redaction box in the document - right clicking in the redaction box in the document then selecting the redaction code(s) from the drop down list (repeat if multiple redaction codes are required). If you need to unselect a code – right click in the redaction box and click on the incorrect ticked code
- You can change the default redaction code by selecting 'Redaction Properties' and in custom text – type the code you want to set as your default code.
- If no codes are appearing in your redacted text – go to 'Redaction Properties' and ensure that the Custom Text is selected and that there is a redaction code in the text box need.

If the whole document is exempt you need to first add the text box at the top of page 1 then redact the document – edit the 'redaction tool properties' – ensure that the custom text box is selected and the redaction code to be used is in the custom text box. Then select 'Mark Pages to Redact' and select 'mark specific pages to redact' – the page range should include all the document pages and hit okay.

- If the default redaction code is different to what you are using to redact the document you will need to change the redaction code on each page. This can be done either page by page by right clicking on the page and selecting the correct redaction code or by updating the custom text box in the 'redaction tool properties' and then redacting the whole document.
- If the redactions do not apply to every page you can either select the individual pages in the 'mark specific pages to redact' to only redact the specific pages or you can unredact individual pages by going to that page – click anywhere on the page then hit the 'delete' button to remove the redaction from that page (repeat for each page where multiple pages are to be unredacted).

It is important that you put the FOI number and Document number at the top of the page before you redact the page. It is essential that you mark exempt documents for redaction – that way if the document is accidentally included in a document set and sent to the applicant it will be fully redacted reducing the risk of releasing sensitive information.

## Glossary / Key Notes

<b>Glossary</b>	
<b>DM</b>	Decision Maker
<b>AO</b>	Action Officer
<b>LDO</b>	Law Design Office
<b>TC</b>	Telephone conversation
<b>SoP</b>	State of Play
<b>Statutory Deadline</b>	30 calendar days from date of request. The clock stops at various stages of progress and can be affected by varying outcomes and/or additional processes, such as charges, formal 3 <sup>rd</sup> party consultation, 24AB process or extensions of time.
<b>clock stops</b>	Under the FOI Act, requests should be finalised within 30 days of receipt of the request. The counting of processing days is paused or 'stopped the clock' at various stages of processing. Examples include: Charges are issued and the applicant is required to pay; Consultation period when negotiating the scope of the request with the applicant
<b>OAIC</b>	Office of the Australian Information Commissioner
<b>Dep Sec</b>	Deputy Secretary
<b>IC</b>	Information Commissioner
<b>TO</b>	Treasurer's Office
<b>AT</b>	Assistant Treasurer
<b>AMTF</b>	Assistant Minister for Treasury and Finance
<b>FOI</b>	Freedom of Information
<b>FOI Act</b>	<i>Freedom of Information Act (1982)</i>

### Key Notes

#### Freedom of Information Act 1982

<http://www.comlaw.gov.au/Details/C2011C00052>

#### Office of the Australian Information Commissioner (OAIC) FOI Guidelines

#### FOI Team Email Circulation

The FOI Team email address should be copied into general FOI correspondence.







**Australian Government**  

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**The Treasury**

**GUIDE FOR  
FOI  
DECISION MAKERS**

## 1. BACKGROUND INFORMATION

### **Purpose of these guidelines**

2. The purpose of these guidelines is to inform decision-makers and action officers in Treasury about the *Freedom of Information Act 1982* (the Act) and their roles in managing responses to applications in accordance with the Act in a comprehensive and timely way. The guidelines also inform the public about the way in which Treasury manages requests for information under the Act. These guidelines are a public document.

In processing a request, FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC) should also be taken into account.

### **Treasury's approach to the Act**

3. The objects of the Act are to give the Australian community access to information held by the government of the Commonwealth by requiring agencies to publish information and providing for a right of access to documents.
4. Treasury is subject to the operation of the Act.
5. Treasury is committed to upholding the intent of the Act within this context. To that end, and recognising that the Act allows for certain exemptions Treasury decision makers will not claim exemption of material unless the information is genuinely sensitive and there is a real prospect of harm flowing from its disclosure.

## **PROCESSING REQUESTS**

### **Time in which decisions must be made**

6. 'All reasonable steps' must be taken to process a request within 30 days of Treasury receiving it.
7. This time is extended in the following circumstances:
  - where Treasury must consult third parties (see para 26 below 'consultation with external stakeholders - statutory third parties') - time is extended by 30 days if the applicant is notified of this within the original 30 days;
  - where an estimate of charges is issued within the 30 or 60 days - the processing time resumes when the applicant pays the charges or a 25% deposit, or Treasury decides, or is ordered by the Administrative Appeals Tribunal or a court, not to impose the charges;
  - where an agreement is reached in writing with the applicant for a period of no more than 30 days

— where additional time has been granted by the OAIC in the case of complex or voluminous requests.

8. If a decision is not made within time, a FOI applicant can seek review by the AIC and/or complain to the AIC.

#### **Processing requests – general information**

9. A request for a document/s under the Act may be sent to the department's postal address or sent by email to FOI@treasury.gov.au.
10. On receipt of a request, the FOI Team will determine whether the request meets the formal requirements for a valid request under the Act (the request must contain enough information to enable Treasury to clearly identify the documents). If it does, the FOI Team will write to the applicant, as soon as practical and within 14 days, acknowledging the receipt and date of receipt of the request. If it does not, the FOI Team will write to the applicant explaining the deficiency and advising how it might be rectified. The 30 day processing time does not commence until a valid request is received.
11. The FOI Team will consider the scope of the request and contact the Division most closely related to the documents requested. A decision maker and an action officer will be allocated to the request. The decision maker is usually the Division Head of the relevant division.

#### **Locating relevant documents**

12. A FOI request must provide such information concerning the document which enables the document to be identified. If there is doubt as to whether sufficient information has been provided to enable the document/s to be identified contact the FOI team immediately as it is not a valid request.
13. The action officer will take the lead on searching for relevant documents and will seek advice from the FOI team as appropriate. All documents relevant to the request should be identified as soon as possible. It is crucial that this task be completed as quickly and thoroughly as possible. The most significant risk factor in the successful management of an FOI request is a timely and accurate search process.
14. A FOI request should not be interpreted in a narrow, pedantic or legalistic manner. It should be interpreted to give full value to its terms. If there is ambiguity about a term in an FOI request or you are unsure about the scope of the request the FOI applicant should be consulted.
15. 'Document' means any physical object from which information can be extracted. This includes paper files, electronic files, emails, post-it notes, spiral bound desktop notebooks, sound and video recordings.

16. It does not include any document which is in the open access period under the Archives Act unless it contains personal information about the FOI applicant. It does not include any document which is available for purchase in accordance with arrangements made by a Commonwealth agency.
17. The FOI Act applies to any document in the possession of Treasury. This includes documents held in any of the Treasury Divisions. A Minister is treated as a separate agency for FOI purposes.
18. Possession may be either physical or constructive. Physical possession includes any document which is actually held by Treasury. Constructive possession includes any document to which Treasury has an immediate right of access. This might include documents in the possession of a contractor.
19. Treasury must take all reasonable steps to locate relevant documents.

#### **Transferring FOI requests among agencies**

20. The FOI Team will consider whether transfer of the request to another agency should be sought. Action officers should also consider whether this would be appropriate and discuss with the FOI Team. If it is decided that transfer should take place, the FOI Team will write to the FOI Team in the other agency and ask if they would be prepared to accept transfer. The other agency is not obliged to accept transfer of the request.
21. If the request relates to documents:
  - that are not in Treasury's possession but are, to our knowledge, in another agency's possession; or
  - where the subject matter of the documents is more closely connected with the functions of another agency

Treasury can, with the agreement of the other agency transfer the request or part of the request to that agency.
22. The Act provides that where documents requested originated from or relate to the functions of *exempt* agencies listed in Schedule 2 Part 1 of the Act, and is more closely connected to the functions of the agency, the request **shall** be transferred to the relevant Department responsible for the exempt agency. (eg ASIO, ASIS, DIO, DSD).
23. The processing period for a transferred request commences on the day after the *first* agency receives the request - not the day the second agency receives it.

## **Consultation**

24. The FOI Act requires consultation in some circumstances. In other cases it will be advisable in order to make a sound decision.

### **Consultation with the FOI applicant**

25. Processing an FOI request can be a much simpler task if a good relationship can be established with the FOI applicant. Decision-makers are encouraged to maintain a line of communication with the applicant where appropriate. The circumstances in which it may be necessary to consult with the FOI applicant include:
- Where the terms of the request are a little unclear or where you would be assisted by further information to locate the documents;
  - Where the terms of the request are very wide and you might be able to narrow its scope;
  - Where there are multiple copies of documents. It may be possible to agree with the applicant that only one copy will be provided (only exact duplicates are “copies”, though some FOI applicants are happy to receive just the most recent version of a document);
  - Where Treasury will be consulting a statutory third party (see below) or imposing charges. An applicant may for example agree that they don't want access to any personal information or business affairs information in the documents.

### **Consultation with internal stakeholders**

26. If a FOI request relates to documents in which various divisions of Treasury have a stake it is appropriate to consult colleagues in other areas for advice on whether certain documents contain any material that should not be released, and the reasons for that view.

### **Consultation with Minister's Offices**

27. It may be prudent to consult with a Minister's Office, where documents have originated from the office of a Treasury portfolio Minister.

### **Consultation with external stakeholders (other than statutory third parties)**

28. A FOI request may raise issues which cross agency boundaries. In some circumstances, it may be appropriate to transfer the FOI request or part of it to the other agency (see 'transferring FOI requests among agencies' above). In other circumstances it may be appropriate to seek guidance from officers of the other agencies as to whether documents contain any sensitivities - for example if the document was authored by another agency or raises issues which relate to that agency's functions.

29. Documents touching on Cabinet matters should be referred to the Department of Prime Minister and Cabinet for guidance and documents relating to foreign relations should be referred to the Department of Foreign Affairs and Trade for guidance. This should be done as soon as possible after receipt of the request. The FOI Team will again carry out such consultations.
30. The first point of contact in another government agency is that agency's FOI contact officer. Contact details for each agency's FOI contact officer are listed on the OAIC website.

***Consultation with external stakeholders - statutory third parties***

31. Treasury may be legislatively required to consult some third parties in certain circumstances:
  - documents affecting Commonwealth-State relations: where arrangements have been entered into between the Commonwealth and a State about consultation under the FOI Act and the document was or contains information that originated with or was received from the State or a State authority and the State or Territory body could reasonably wish to contend the document is exempt under s 47B of the FOI Act, the documents must not be released unless that State or Territory body has been consulted. Contact in the first instance should be made with the State or Territory body's FOI contact officer;
  - documents affecting a person's business or professional affairs: a decision maker must not release information concerning a person's business or professional affairs, or the business, commercial or financial affairs of an organisation or undertaking, without first consulting them if they could reasonably wish to contend that the document is exempt under s47G; and
  - documents containing personal information: A decision-maker must not release personal information about an individual without consulting them in circumstances where that individual could reasonably wish to contend that the document is exempt under s 47F of the FOI Act.
32. Where the decision maker decides to consult one of these statutory third parties, Treasury is entitled to an extra 30 days in which to process the FOI request. Where this applies, the decision maker/action officer must notify the FOI applicant of the change in due date for the decision without disclosing the identity of the third party.
33. The FOI Team will again carry out these consultations.

**Charges**

34. Treasury can charge FOI applicants for processing an FOI request. The rate at which charges may be imposed is fixed by regulations to the FOI Act.

**Table 1 Charges listed in Schedule to the Charges Regulations**

<b>Activity item</b>	<b>Charge</b>	<b>Schedule</b>
<b>Search and retrieval:</b> time spent searching for or retrieving a document	\$15.00 per hour	Part I, Item 1
<b>Decision-making:</b> time spent in deciding to grant or refuse a request, including examining documents, consulting with other parties, and making deletions	First five hours: journalists and non-profit organisations – Nil First hour: other requests - Nil Subsequent hours - \$20 per hour	Part I, Item 5
<b>Electronic production:</b> retrieving and collating information stored on a computer or on like equipment	Actual cost incurred by the agency or minister in producing the copy	Part I, Item 3 Part II, Items 4, 4A, 6
<b>Transcript:</b> preparing a transcript from a sound recording, shorthand or similar medium	\$4.40 per page of transcript	Part I, Item 4 Part II, Item 7
<b>Photocopy:</b> a photocopy of a written document	\$0.10 per page	Part II, Item 2
<b>Other copies:</b> a copy of a written document other than a photocopy	\$4.40 per page	Part II, Item 3
<b>Replay:</b> Replaying a sound or film tape	Actual cost incurred in replaying	Part II, Item 5
<b>Inspection:</b> supervision by an agency officer of an applicant's inspection of documents or hearing or viewing an audio or visual recording	\$6.25 per half hour (or part thereof)	Part II, Item 1
<b>Delivery:</b> posting or delivering a copy of a document at request of applicant	Cost of postage or delivery	Part II, Item 8

35. No charge is payable for an applicant's own personal information.

36. In deciding whether to impose a charge the decision maker should take into account the 'lowest reasonable cost' objective as set out in s 3 of the Act, as well as the guiding principles set out in the OAIC Guidelines.

In summary, these guiding principles are:

- to take account of the 'lowest reasonable cost' objective;

- not to use charges to discourage an applicant from exercising the right of access;
  - charges should fairly reflect the work involved in providing access;
  - a decision to impose charges should be transparent - the notice of charge should be clear and fully explain and justify the charge;
  - charges should not be imposed unless it is appropriate to do so, bearing in mind that many documents disclosed in response to a request will be thereafter made available on the Treasury website and that individual requests play a role in advancing the pro-disclosure objectives of the Act.
37. Where a decision maker decides to impose charges for access to documents, the first step is to notify the FOI applicant of the agency's estimated charges. The FOI Team will prepare an estimate of charges letter for the decision maker's signature.
38. A FOI applicant may request that the charges be waived or reduced on the grounds of financial hardship, public interest or any other relevant ground.

### **Exemptions**

39. The FOI Act obliges an agency to release a document unless it is exempt under the Act. Exempt documents are not required to be released – however, they can be if the agency wants to release it.
40. Broadly speaking the exemptions are of two basic kinds:
- exempt documents: documents to which access is not required to be given: ss33 (national security, defence or international relations); s34 (Cabinet documents); 37 (law enforcement), 38 (secrecy provisions), 42 (legal professional privilege), 45 (material obtained in confidence); 46 (contempt of Parliament or of court); 47 (trade secrets or commercially valuable information);
  - conditionally exempt documents: access must be given to conditionally exempt documents unless access would be contrary to the public interest: ss47B (Commonwealth - State relations), s47C (deliberative processes), 47D (financial or property interests of the Commonwealth), 47E (operations of agencies), 47F (personal information), 47G (business and professional affairs), 47H (research), 47J (national economy).
41. Information on the exemption provisions is available in the OAIC Guidelines – and from the FOI Team. The FOI Team should be consulted first.
42. Where a document contains both exempt material and non-exempt material, a decision should be made to release in part and a copy of the document with the exempt material deleted should be prepared and access given to that document.



The FOI Team will scan the relevant documents and then re-dact the exempt parts of them.

### **Deferring access**

43. In some circumstances it is possible to make a decision to grant access to a document on the expiry of a certain period of time or after a certain event occurs. Such a decision may be appropriate in cases where granting access on the date the decision is due would create difficulties which do not arise if the document were released at an identifiable point in the future. However, note the public interest that may have to be satisfied in such circumstances.

### **Preparing the decision**

44. A notice of decision must be prepared. The FOI team will prepare a draft notice of decision.
45. A decision letter must set out the decision-maker's findings of fact, the material on which those findings were based and the reasons for the decision.
46. In circumstances where a decision maker has decided to release a document contrary to the objections of a statutory third party (see 'consultation with external stakeholders - statutory third parties', above), it will be necessary to notify the third party of the decision. They will have review rights under the Act.
47. Decision makers are not required to disclose exempt information about a document in the notice of decision itself, including in the description of documents in the schedule. Seek advice from the FOI Team if you have any concerns.

### **Providing access to documents**

48. Once a decision to give access to documents has been made, the agency must, if all levied charges have been paid, provide access to those documents.
49. Access may be granted by giving a photocopy of the relevant documents to the applicant (with the exempt and irrelevant parts redacted). It may also be by scanning the relevant documents and providing them by email. Access may be in any form agreed between the applicant and Treasury, including providing an opportunity to view the documents, providing a transcript of a sound recording or other document. If there is difficulty agreeing a form of access with the applicant, consult the FOI Team as the applicant may have appeal rights in relation to this issue.
50. Care should be taken to preserve the integrity of any document to which access is granted.

## **Review rights**

51. A FOI applicant can seek a review of the decision. The following options are available and must be included in the notice of decision:

### ***Internal review***

52. An applicant can seek an internal review of the decision or a review by the OAIC. It is the applicant's choice.

### ***Review by the Australian Information Commissioner***

53. Applications can also be made to the OAIC for a review of an internal review decision and a deemed decision to refuse access (where a decision was not made in the statutory timeframe).
54. An FOI applicant and a statutory third party have a right to complain to the OAIC or the Commonwealth Ombudsman if they are dissatisfied with the way in which Treasury has handled a request.

### ***Review by the Administrative Appeals Tribunal***

55. Decisions made by the OAIC are reviewable by the Administrative Appeals Tribunal.

## **DEFINITION OF ROLES IN PROCESSING FOI REQUESTS IN TREASURY**

### **Role of the Decision Maker**

56. The decision maker is the person who, under s 22 of the Act, is authorised by the principal officer of the agency to grant and or refuse access to documents relevant to a specific FOI request and respond to that request as the initial decision-maker.
57. The principal officer has delegated this responsibility under the Act to all SES Band 1 and above.
58. While decision makers can take advice when considering the request, when making decisions they must act independently and make their own decision as to whether the documents or parts of documents are exempt. This requires that they examine each part of every document relevant to the request and make an independent decision on access.
59. The decision maker is responsible for making decisions:
- relating to the imposition of charges;
- on granting access to documents.

60. The decision maker should ensure that he or she is informed of the progress of the FOI request at regular intervals, particularly:
- when the request is first received - to clarify the scope of the request, consider the types of documents relevant and to consider issues relating to consultation, transfer and charges;
  - as examination of the documents takes place to discuss the types of exemption claims that may be appropriate.

#### **Role of Action Officer**

61. The action officer is the person(s) nominated from the relevant division to assist the decision maker. The roles of the action officer are to:
- meet and discuss with the FOI Team the request and how to process the request; to keep the FOI Team informed of the progress of the request.
  - identify, locate, coordinate and collate the documents relevant to the response;
  - keep the decision maker informed of developments in the processing of the request. The action officer should meet with the decision maker before the charges estimate is sent to the applicant to discuss:
    - the types of documents identified as relevant to the request and any issues relating to interpretation of the request;
    - whether there are any Cabinet or Cabinet related documents;
    - whether consultation should or is required to take place;
  - examine the documents and make recommendations to the decision maker on exemptions and material not relevant to the request;
  - a copy of the marked up documents must be sent to the Treasurer's Office 2 full working days before the decision is due. This is done in an email sent by the FOI Team.

#### **Role of FOI Team**

62. The FOI Team is responsible for the beginning to end management of FOI request within Treasury. This includes:
- receiving requests and notifying the relevant Division;
  - acknowledging the request;
  - determining whether the request is valid;
  - meeting with the decision maker/action officer to explain how to process an FOI request;
  - managing the processing of the request, including reminders to the action officer and decision maker about actions that should take place;

- providing expertise and advice on the operation of the FOI Act, practical advice on particular issues and guidance on exemptions;
- producing guidance materials for action officers and decision makers; providing assistance where required eg template letters, draft words for decision letters
- providing assistance with the process of FOI requests to offices of the Treasury portfolio Ministers.
- drafting all correspondence with applicant, third parties and other agencies. .



# Agency Resource 5

## Freedom of Information

September 2011

### Exemptions and conditional exemptions under the *Freedom of Information Act 1982*

FOI 2618  
Document 3

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

### Exemptions

s 33	Exempts documents if their disclosure would, or could reasonably be expected to, cause damage to Australia's <b>national security, defence or international relations</b> , or would divulge information communicated in confidence to the Commonwealth by a foreign government or an international organisation. This includes information communicated pursuant to a treaty or formal instrument on protection of classified information.
s 34	<p>Exempts <b>Cabinet documents</b>, which are Cabinet submissions, official records of the Cabinet, briefings to a minister on a Cabinet submission, and drafts of Cabinet submissions, official records and Cabinet briefings.</p> <p>A Cabinet submission must have been created for the dominant purpose of being submitted for Cabinet's consideration and must have actually been submitted or be proposed by a sponsoring minister to be submitted (s 34(1)).</p> <p>Includes a document that is a copy, part of or an extract from an exempt document (s 34(2)), and a document that contains information which would reveal a Cabinet deliberation or decision (except where the deliberation or decision has been officially disclosed) (s 34(3)).</p> <p>A document is not exempt merely because it is an attachment to an exempt document (s 34(4)).</p> <p>A document by which a Cabinet decision is officially published (such as a media release) is not an exempt document (s 34(5)).</p> <p>Information in a Cabinet document is not exempt matter if the information consists of purely factual information, unless disclosure would reveal a Cabinet deliberation or decision whose existence has not been officially disclosed (s 34(6)).</p>
s 37	<p>Exempts documents if their disclosure would or could reasonably be expected to affect the <b>enforcement of law and protection of public safety</b>, including by:</p> <ul style="list-style-type: none"> <li>• prejudicing the conduct of an investigation of a breach relating to taxation or proper administration of the law</li> <li>• revealing the existence or identity of a confidential informant (see s 37(2A) for confidential sources)</li> <li>• endangering any person's life or physical safety</li> <li>• prejudicing a fair trial</li> <li>• disclosing lawful methods of investigation or prejudicing methods for protecting public safety.</li> </ul>
s 38	<p>Exempts documents to which <b>secretary provisions</b> apply under a provision of another Act and either:</p> <ul style="list-style-type: none"> <li>• that provision is specified in Schedule 3 of the FOI Act, or</li> <li>• s 38 is expressly applied to the document or information in the document, by that secrecy provision, or by another provision of that or any other enactment (s 38(1)(b)).</li> </ul> <p>There are two limitations to this exemption. An applicant has a right of access to a document that is exempt if the relevant secrecy provision does not prohibit disclosure to that applicant. The exemption does not apply if the applicant requests a document which contains their own personal information, except if disclosure is prohibited under the <i>Migration Act 1958</i>.</p>

<b>s 42</b>	Exempts documents subject to <b>legal professional privilege (LPP)</b> . The dominant purpose test and the independent legal adviser and client relationship are determinative when considering LPP. Documents are not exempt if the person entitled to claim LPP waives the claim (s 42(3)(a)). Section 42 does not apply to an agency's operational information (as defined in s 8A).
<b>s 45</b>	Exempts documents containing <b>material obtained in confidence</b> , where the person who provided the confidential information would be able to bring an action under the general law for breach of confidence to prevent disclosure, or to seek compensation for loss or damage arising from disclosure.
<b>s 46</b>	Exempts documents if their disclosure would, apart from the FOI Act and any immunity of the Crown, be in <b>contempt of court or infringe the privileges of the Parliament</b> . A contempt of court is an action which interferes with the due administration of justice. The term 'parliamentary privilege' refers to the privileges or immunities of the Houses of the Parliament and the powers of the Houses to protect the integrity of their processes.
<b>s 47</b>	Exempts documents disclosing <b>trade secrets</b> or <b>commercially valuable information</b> whose value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed. See also the business or professional affairs conditional exemption (s 47G).
<b>s 47A</b>	Exempts <b>electoral rolls</b> , including: <ul style="list-style-type: none"> <li>• print, microform and digital copies of electoral rolls</li> <li>• documents that set out particulars of individual electors that were used to prepare electoral rolls or were derived from electoral roll data.</li> </ul>

## Conditional exemptions

### *Application of the public interest test to conditional exemptions*

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

<b>s 47B</b>	Conditionally exempts documents if their disclosure would or could reasonably be expected to damage <b>Commonwealth-State relations</b> or relations with Norfolk Island, or disclose information communicated in confidence by or on behalf of a government or authority of a State to the Commonwealth or the Government of Norfolk Island.
<b>s 47C</b>	Conditionally exempts documents if their disclosure would disclose <b>deliberative processes</b> . Deliberative matter includes opinions, advices or recommendations that have been obtained, prepared or recorded, and consultations or deliberation that have taken place, as part of the deliberative processes relating to the functions of an agency, a minister or the Government of the Commonwealth or Norfolk Island. Operational information (as defined in s 8A) and purely factual material are not deliberative matter. Does not apply to: <ul style="list-style-type: none"> <li>• reports of scientific or technical experts</li> <li>• reports of a body or organisation established within an agency</li> <li>• records of a final decision given in the exercise of a power or of an adjudicative function (s 47C(3)).</li> </ul>
<b>s 47D</b>	Conditionally exempts documents if their disclosure would have a substantial adverse effect on the <b>financial or property interests of the Commonwealth or Norfolk Island</b> . Relates both to expenditure and revenue-generating activities, including intellectual property and the Crown's interests in natural resources.

<b>s 47E</b>	<p>Conditionally exempts documents if their disclosure would reasonably be expected to affect <b>certain operations of agencies</b> on one or more of the following grounds:</p> <ul style="list-style-type: none"> <li>• prejudice to the effectiveness of procedures or methods for the conduct of tests, examinations or audits</li> <li>• prejudice to the attainment of the objects of particular tests, examinations or audits</li> <li>• a substantial adverse effect on the management or assessment of personnel</li> <li>• a substantial adverse effect on the proper and efficient conduct of operations.</li> </ul>
<b>s 47F</b>	<p>Conditionally exempts documents if their disclosure would involve the unreasonable disclosure of <b>personal information</b> about any person (including a deceased person).</p> <p>An agency or minister must take into account:</p> <ul style="list-style-type: none"> <li>• the extent to which the information is well known</li> <li>• whether the person to whom the information relates is known to be associated with the matters dealt with in the document</li> <li>• the availability of the information from publicly accessible sources</li> <li>• any other relevant matters (s 47F(2)).</li> </ul> <p>Access can be given to a qualified person nominated by the applicant if it would be detrimental to the applicant's health or well-being to be given direct access to the documents. The qualified persons include medical practitioners, psychiatrists, psychologists, counsellors and social workers.</p>
<b>s 47G</b>	<p>Conditionally exempts documents if their release would disclose information about a person's <b>business</b> or professional affairs, or the business, commercial or financial affairs of an organisation or undertaking, and the disclosure:</p> <ul style="list-style-type: none"> <li>• would or could reasonably be expected to unreasonably affect those lawful affairs, or</li> <li>• could reasonably be expected to prejudice the supply of information to the Commonwealth, Norfolk Island or an agency.</li> </ul> <p>Consider also the trade secrets or commercially valuable information exemption (s 47).</p>
<b>s 47H</b>	<p>Conditionally exempts documents containing information about <b>research</b> being undertaken by an agency officer if its disclosure would be likely unreasonably to expose the agency or officer to disadvantage.</p> <p>Only applies to CSIRO and Australian National University (ANU) (see Schedule 4).</p>
<b>s 47J</b>	<p>Conditionally exempts documents if their disclosure would reasonably be expected to have a substantial adverse effect on Australia's <b>economy</b> (including on a particular sector of the economy or the economy of a particular region), by:</p> <ul style="list-style-type: none"> <li>• influencing a decision or action, or</li> <li>• giving a person or class of persons an undue benefit or detriment in relation to their business by providing premature knowledge of an action or inaction.</li> </ul> <p>Documents include those containing matter relating to currency or exchange rates, interest rates, taxes, financial regulation and foreign investment.</p>

**For further information**  
**telephone:** 1300 363 992  
**email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
**write:** GPO Box 5218, Sydney NSW 2001  
or visit our website at [www.oaic.gov.au](http://www.oaic.gov.au)

Dear [applicant name]

We write to acknowledge receipt of your request, under the *Freedom of Information Act 1982* (FOI Act), seeking the following documents:

[insert request]

Your request was received by the Treasury on [date]. The FOI Act provides that we have 30 days to process the request. This period may be extended if we need to consult third parties or for other reasons. We will advise you if this happens.

We will advise you if a charge is payable to process your request and the amount of any such charge as soon as possible.

We make the following assumptions that affect the scope of the request. These are set out below.

It is our usual practice:

- not to disclose the personal information of government employees or the personal contact details of senior government employees (including those of the Treasury). The names of senior officers will generally be released.
- not to release duplicates of any document captured within the scope of the request.
- only the final version of a document will be considered within scope.

Please inform us if you do not agree to the request being processed on the above assumptions. If we do not hear from you, your request will be processed on the basis that these documents are outside the scope of your request.

We will contact you using the email address you provided. Please advise if you would prefer us to use an alternative means of contact.

If you have any questions in relation to your application, please contact the FOI Team on 02 6263 2800.

Kind regards

Freedom of Information Officer  
The Treasury  
Ph: +61 2 6263 2800  
e: [foi@treasury.gov.au](mailto:foi@treasury.gov.au)



Good morning/afternoon [name of Division Head]

The Treasury has received a new request from [applicant name] on [date] pursuant to the *Freedom of Information Act 1982*.

The applicant is seeking the following documents:

[quote of request(s)]

We would be grateful for your confirmation that your Division is the appropriate area to action it – or, if not, advice as to what area would be the appropriate one. If your area is the right one, would you please nominate a decision-maker for this request.

As you are likely aware, the statutory timeframe commenced upon receipt of the request. The current deadline for decision on the request is [date] (pending any extension for consultation or payment of charges).

To help us manage the allowed timeframe and ensure that the decision maker has the best opportunity to consider their decision could you (and the decision-maker) please ensure that the following time-frames are met:

- [date] – appointment of decision maker and nomination of action officer
- [date] – provision of documents subject to the request to the FOI team with a completed document and consultation schedule.

The decision maker and action officer are responsible for ensuring that the Treasurer's Office is informed of any issues that may arise during this request that would affect their interests.

If you would like to discuss the request or FOI processes generally, feel free to contact the FOI team.

Kind regards

**To: decision maker**  
**CC: action officer**

Dear [decision maker name]

You have been nominated as the decision maker for the request received from [applicant name] on [date] under the *Freedom of Information Act 1982* (the FOI Act).

The applicant is seeking the following documents held by the Treasury:

[quote of request(s)]

We ask that the action officer send the following to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au) by [date] (we will send the action officer an email explaining this in more detail):

- All documents (in PDF)
- The completed FOI schedule
- A record of the searches used to find the documents
- A record of how long it took to search for and prepare the documents (for determining charges)
- The completed Cabinet consultation schedule if required

The FOI statutory deadline is [date].

Would you please ensure that the Treasurer's Office is informed of any issues that may arise during this request that would affect their interests.

Happy to discuss

Dear [action officer name]

You have been nominated as action officer for the request received from [applicant name] on [date] under the *Freedom of Information Act 1982* (the FOI Act).

The applicant is seeking the following documents:

[quote of request(s)]

I have **attached** a checklist of next steps, but in brief the initial steps are:

- Review the scope of the request – contact the FOI team immediately if the scope is not clear, the request seems too large, or you have any other concerns
- Search for documents – if there are no documents, please notify the FOI team
- Complete the **attached** FOI Schedule, including providing comments on sensitivities and 3rd party consultations.
- Meet with the decision-maker to review the schedule and discuss how the FOI request should progress.
- Send the following to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au):
  - All documents (in PDF)
  - The completed FOI schedule
  - A record of the searches used to find the documents
  - A record of how long it took to search for and prepare the documents (for determining charges)
  - The completed Cabinet consultation schedule if required (a template for which is **attached**)

The above actions should be completed by [date]. The statutory deadline is [date].

Please record the time spent processing this request. When the request has been finalised, we ask that you complete the **attached** excel spreadsheet on staff time processing the FOI request and email it to [foi@treasury.gov.au](mailto:foi@treasury.gov.au).

Could you please ensure that the Treasurer's Office is informed of any issues that may arise during this request that would affect their interests.

Kind regards

## Action Officer Stage 1 Checklist – Due within 10 days of request

Please contact the FOI team on x 2800 or by email [foi@treasury.gov.au](mailto:foi@treasury.gov.au) with any FOI questions.

### SEARCHING FOR DOCUMENTS

- Review request and identify type of documents covered
  - Request unclear or too large? → **contact FOI team immediately.**
- Identify where in the Treasury the documents are located.
- Search for and retrieve all documents within scope.
  - No documents found? → **contact FOI team.**
  - IT searches required? → **contact FOI team.**
- Make a record all searches undertaken

FOI 2618  
Document 8

### PREPARING THE DOCUMENT SET

- Review documents to confirm they are within scope.
- Remove duplicates.
- Convert documents to PDF.
- Fill out document details in FOI Document Schedule.
- Rename PDFs to match document numbers in the schedule.

### SENSITIVITY ANALYSIS

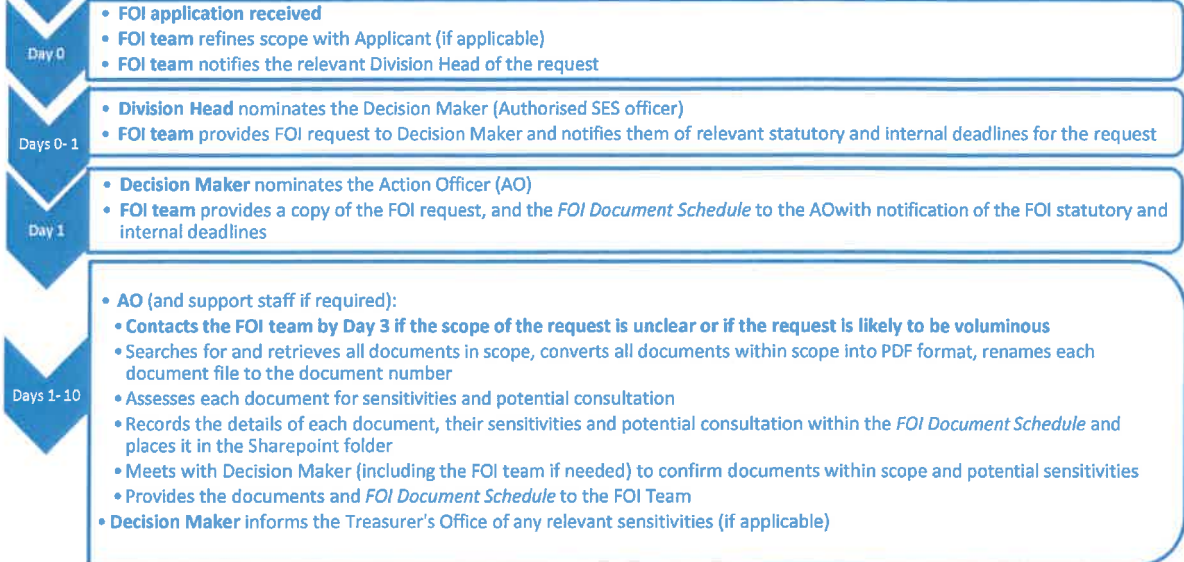
- Identify who might suffer harm from disclosure of each document, and the type of harm
  - Your area?
  - Another area in Treasury? → **seek advice from the area**
  - Cabinet? → **contact FOI team immediately**
  - Anyone else? → identify who is affected in consultation section of the schedule
- Record sensitivities and anyone who might need to be consulted in the schedule.

### FINALISATION

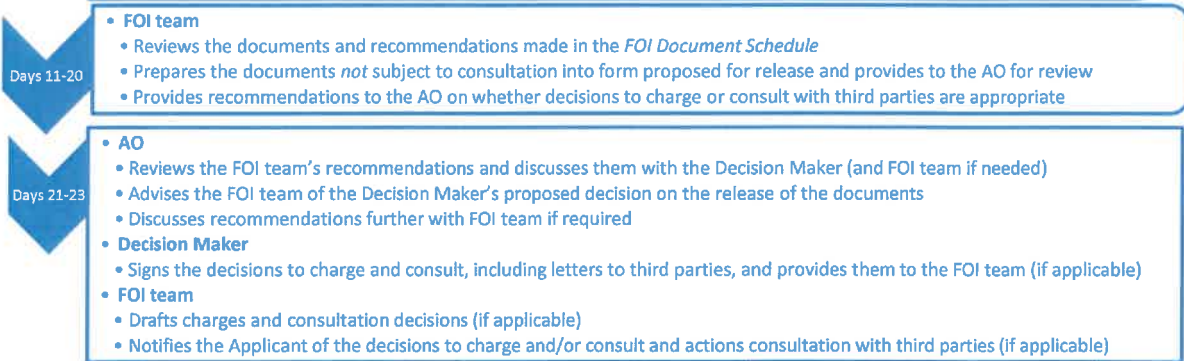
- Review document schedule with the decision maker
- Provide all materials to FOI team.**
  - Document set
  - Document schedule
  - Record of searches
  - Record of time searching and preparing document set
  - Cabinet consultation schedule (if requested by FOI team)

## FOI Process Timeline

Stage 1 – Days 0-10  
Line Area Search, Retrieval and Sensitivity Analysis



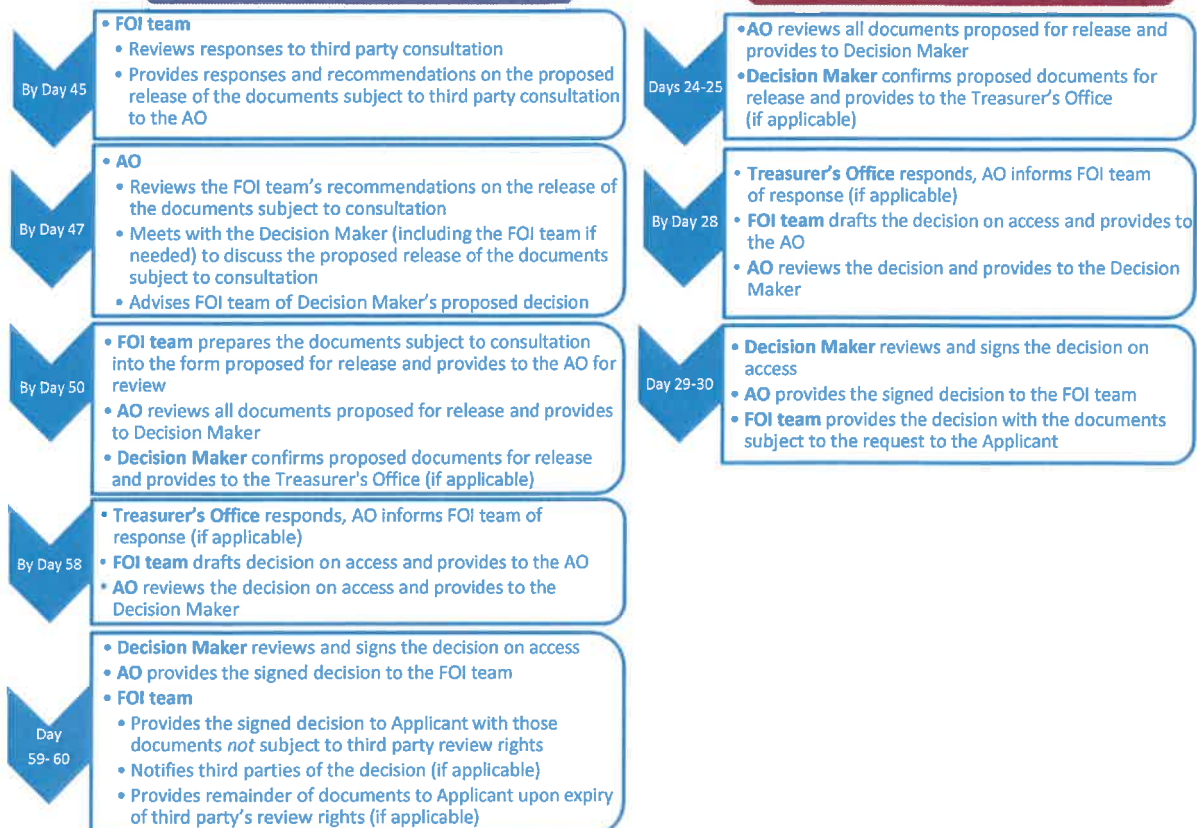
Stage 2 – Days 11-23  
FOI Team Review and Assessment



### If Consulting (60 Day Statutory Timeframe)

### If Not Consulting (30 Day Statutory Timeframe)

Stage 3 – Decision





**Schedule of Cabinet Documents for PM&C Consideration**

Department: Treasury

FOI Title and Number: FOI XXXX

Doc No	Document Date	Description - author & addressee, title	No of pages	Dept/Agency advice on relationship to Cabinet Process	Cabinet exemptions claimed	Pages exempt in full/Exempt in part	Cabinet reference number/Date of consideration by Cabinet	Was document produced for the dominant purpose of Cabinet consideration?	Has deliberation or decision of Cabinet been officially disclosed or published?	Is the material for which exemption is claimed purely factual?	PM&C Comments in relation to exemption claim
EG	1/01/2015	Briefing for Minister	2	This is the departmental briefing provided to the Minister on an item submitted to cabinet.	eg 34(1)(c) - Document was bought into existence for the dominant purpose of briefing a minister on a document submitted to Cabinet (or proposed by a minister to be so submitted)		eg TA17/0077/CAB	Yes	Yes/No	Yes/No	

## FOI XXXX – Staff and Processing Times

Agencies are required to provide Annual Statistical Returns on staff resources involved in FOI work and the hours spent on FOI work.

The Treasury is required to report on the number of staff involved in processing FOI requests and the hours spent by staff classification on an annual basis.

Please complete this form – list the Treasury staff who were involved in processing the request and the actual (or estimated) hours processing it.

Send the completed form to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au).

### Staff resources:

Names of staff involved in processing the FOI request:

<b>Staff name:</b>

Please include the names of the decision maker and all staff involved in searching for documents and processing the request.

### Staff hours spent on FOI work

Estimate the time spent in processing the FOI request:

Staff level	Hours
SES Officers (or equivalent)	
APS 6 and Executive Level Staff (EL1 and EL2)	
APS 1-5 staff	
<b>TOTAL:</b>	



FOI CHARGES ESTIMATE TOOL - SIMPLE			
(insert data in shaded boxes only)			
<b>GENERAL DATA ESTIMATE</b>			
(terms in red are explained on the notes sheet)			
Pages (approx) of material in scope		in A4 pages	
Number of discrete relevant documents			
Percentage (approx) of pages to disclose in whole			
Percentage (approx) of pages requiring redaction			
Percentage (approx) of content that is applicant's own personal information			
Number of third parties to consult			
<b>PROCESS - search and retrieval</b>			
	TIME per task	charge time:	COST @ \$15 per hr
Time required to execute searches - enter hours (including part hours eg 0.5)		0.00	\$0.00
Preparing schedules detailing all relevant documents (basic data entry eg doc no, date, description) - enter minutes per 10 documents		0.00	\$0.00
<i>Search &amp; Retrieval Subtotal</i>		0.00	<b>\$0.00</b>
<b>PROCESS - decision-making</b>			
	TIME per task	charge time:	COST @ \$20 per hr
Examine relevant pages for decision making - enter minutes per page	5	0.00	\$0.00
Redacting pages that are partially disclosed - enter minutes per page		0.00	\$0.00
Consult third parties - enter average per third party in hours		0.00	\$0.00
Preparation and notification of decision			
Writing statement of reasons - enter hours		0.00	\$0.00
Complete schedule by recording decision @ 4 documents per minute		0	\$0.00
<i>Decision-making Subtotal (before deduction of 5 hours)</i>		0.00	\$0.00
<i>Decision-making Subtotal (after deduction of first 5 hours free for all)</i>		0.00	<b>0</b>
<b>ACCESS - view / inspect</b>			
	TIME per task	charge time:	COST @ \$6.25 per 1/2 hr
Supervised inspection of documents - minutes per page		0.00	0.00
Supervised inspection of audio/visual material - insert total duration of material in minutes then add 30 mins set-up and pack-up time		0.00	0.00
<i>Inspection/Viewing Subtotal</i>		0.00	<b>\$0.00</b>
<b>ACCESS - copy and post</b>			
		PAGES	COST @ 10c a page
Photocopies of estimated released pages (including those with deletions) - set to 0 if providing electronically			<b>\$0.00</b>
Electronic media (eg USB drive, CD-ROM) and/or postage - insert estimated cost of materials			
<i>Access Subtotal</i>			<b>\$0.00</b>
<b>ESTIMATED TOTALS</b>			
NUMBER OF RELEASED PAGES			<b>0</b>
TIME (in hours)			<b>0.00</b>
TOTAL COST			<b>\$0.00</b>
Financial hardship/public interest discount (as %)		0%	<b>\$0.00</b>
TOTAL COST (after discount)			<b>\$0.00</b>
MAXIMUM DEPOSIT			<b>N/A</b>

**USING THIS TOOL**

definitive or binding. The Office of the Australian Information Commissioner has emphasised the need for agencies to base estimates on a reasonable sampling of relevant documents to ensure that appropriate assumptions are used to generate estimates for charging purposes. Some IC review decisions



[date]

FOI ref: [FOI no]

[Name and address of applicant]

By email: [address]

Dear [name of applicant]

**Freedom of Information Request – Charges**

I refer to your request to the Department of the Treasury (the **Treasury**) on [date], for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

[quote of request(s)]

In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge in respect of the processing of your request. My preliminary assessment of the charge is \$[amount], based on the following calculations:

Item	Hours	Price
Search and retrieval already undertaken	[number] hours	\$(amount)
Decision-making, including:	First 5 hours (free)	\$0
<ul style="list-style-type: none"> <li>Examination of relevant pages and deciding whether to release or exempt</li> </ul>	+	+
<ul style="list-style-type: none"> <li>The making of any necessary redactions (this does not include the redaction of staff details)</li> <li>Preparation of a decision letter.</li> </ul>	[number] additional hours	\$(amount)
<b>TOTAL</b>		<b>\$(amount)</b>
<b>Deposit (25% of total cost)</b>		<b>\$(amount)</b>

These hourly charges have been calculated using the *Freedom of Information (Charges) Regulations 1982* (the **FOI Regulations**) to reflect the work involved in processing a request and making a decision. However, any access you get to the documents will depend on the final decision, and not the payment of charges.

**What you need to do**

The due date to pay is [DATE]. You can pay the charge in full, or pay a deposit of 25% now and the remainder before you receive any documents. The attachment to this letter sets out the payment options.

***If you dispute the charge***

Please contact the Treasury's FOI team by emailing [foi@treasury.gov.au](mailto:foi@treasury.gov.au) and explain why the charge has been wrongly assessed, why it should be reduced, or why there should be no charge for your request.

Your email must include your reasons for disputing the charge. If you are requesting a reduction in the charge, or that there be no charge, this includes information to help the Treasury understand whether:

- the charge would cause financial hardship to you, or the person on whose behalf you made the request, and
- whether giving access to the documents is in the general public interest, or in the interest of a substantial section of the public.

The Treasury will then consider your email, and make a decision about whether or not to reduce or remove the charge.

***What happens next?***

The 30 day time limit for processing your request is suspended until you pay the charge or deposit, or until you receive a decision from the Treasury about modifying or removing the charge.

If you do not contact the Treasury or pay the charge or deposit **within 30 days of receiving this letter**, your request will be taken to have been withdrawn.

***Rights of Review***

Attached is a statement of your review rights.

Yours sincerely

[Name of decision maker]

[Position]

[Division/Group]

**Department of Treasury Payment Options**

Customer Name: \_\_\_\_\_

Customer Address: \_\_\_\_\_

FOI Number: \_\_\_\_\_

**Option 1: Bank Cheque or Australian Money Order – made out to “Collector of Public Monies”**

Attached

**Option 2: Please debit my credit card as follows:**

AMEX       VISA       Mastercard

\_\_\_\_\_  
 Card Number

/   
 Expiry Date

CCV Number

\$   
 Total Amount

\_\_\_\_\_  
 Name on Card

\_\_\_\_\_  
 Signature of card holder

*Send your completed form:  
 by post to: FOI Officer, The Treasury, Langton Crescent, Parkes ACT 2600  
 or by Email to: [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au)*

Office Use Only			
File Number:		Trim Number:	
Cost Centre:		GL Code:	
Customer Number:		DAN Number:	

## INFORMATION ON RIGHTS OF REVIEW

### 1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act gives you the right to apply for an internal review of the decision under section 29 of the Freedom of Information Act relating to imposition of a charge or the amount of a charge.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au)

**OR**

### 2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

**AND/OR**

### 3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.



[date]  
FOI ref: [FOI ref]

[Name and if applicable, address of applicant]  
By email: [address]

Dear [name of applicant]

### Freedom of Information Request – Consultation

I refer to your request, dated [date] to the Department of the Treasury (the **Treasury**), for the following documents under the *Freedom of Information Act 1982* (the **FOI Act**):

[quote of request(s)]

I am an authorised decision maker under section 23 of the FOI Act.

I am writing to tell you that I believe that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its [size/complexity/broad scope/other]. This is called a ‘practical refusal reason’ under section 24AA of the FOI Act.

On this basis, I intend to refuse access to the documents you have requested. However, you have an opportunity to revise your request before I make a final decision. This is called a ‘request consultation process’ in section 24AB of the FOI Act.

You have **14 days** to respond to this notice in one of the ways set out below.

#### ***Why I intend to refuse your request***

I decided that a practical refusal reason exists because [Insert reasons, examples below – must consider s 24AA(2) of the FOI Act (resources in identifying/locating/collating documents, making the decision, preparing edited copy of document(s), and notifying applicant of any interim or final decision)]

from preliminary enquiries made by the Treasury it appears that it will be difficult to identify the relevant documents within the Treasury’s document management systems. This is because [reasons]. I am satisfied that this task would place a significant burden on a limited number of Treasury staff.

the Treasury has identified/estimated/established that there would be/are approximately [number] pages material in the scope of your request as presently worded. This is a considerable amount of material to be retrieved and then examined in order to process your request. I am satisfied that this task would place a significant burden on a limited number of Treasury staff.



the Treasury has identified/estimated/established that there **would be/are** approximately **[number]** documents within the scope of your request. A review of a sample of these documents revealed that these documents include **[document types]**. This suggests that the majority of the material would require assessment of whether an exemption under the FOI Act would apply, such as **[list of exemptions]**. Assessing this number of documents, preparing a decision on each, and preparing any edited versions of documents would place a significant burden on a limited number of Treasury staff.

### ***Request consultation process***

You have an opportunity to revise your request. This might mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. This will assist the Treasury to focus on the documents that you are most interested in, saving time and resources.

Examples of possible revisions include:

- Providing a date range for documents, such as **[suggested date range]**
- Specifying a document type, such as **[formal briefing material to a Minister, final research papers, or formal correspondence.]**
- Providing more specific details of the information sought. For example, **[the current scope seeks 'related' documents. 'Related' is extremely broad and may capture significantly more documents than you intend, such as to do lists, calendar meetings, media releases and public documents. By contrast, requesting 'the decision and the documents relied upon in making it' is more focussed and makes it easier to find documents relating to your request.]**

If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 30 day time limit for processing your request.

### ***What you need to do***

**You must contact us within 14 days** from day after you receive this notice to:

- withdraw your request
- make a revised request
- tell us that you do not wish to revise your request.

You can contact us at by phone on (02) 6263 2800 or by email at [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au). If we do not hear from you within the 14 days, your request will be taken to be withdrawn.

### ***Questions?***

The Treasury FOI team is available to help you during the consultation period by phone on (02) 6263 2800 or by email to [FOI@treasury.gov.au](mailto:FOI@treasury.gov.au).

Yours sincerely

FIND TREASURY ON   

Name of decision maker

Position

Division





[date]

FOI ref: [FOI ref]

[Name and address of applicant]

By email: [address]

Dear [name of applicant]

### Freedom of Information Request – Notification of third party consultation

I refer to your request to the Department of the Treasury (the **Treasury**) on [date] for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

[quote of request(s)]

#### ***Third Party Consultation***

I have identified third parties that might reasonably wish to make an exemption contention under the FOI Act, namely sections 15(7)-(8) (international relations)/26A (Commonwealth-State relations)/27 (business information)/27A (personal privacy).

The statutory timeframe for processing this request will be extended by 30 days to allow for consultation to occur with these third parties.

Yours sincerely

[Name]

[Position]

[Division/Group]



[Name of applicant]  
By email: [address]

Dear [name of applicant]

**Freedom of Information Third Party Consultation – Personal information**

The Department of the Treasury (the **Treasury**) has received the following request seeking documents under the *Freedom of Information Act 1982* (the **FOI Act**):

[quote of request(s)]

The following documents in scope of this request appears to contain your personal information:

No.	Description
1.	[insert]
2.	

I am writing to seek your views as to whether any information in the documents would be exempt from disclosure under section 47F of the FOI Act on the basis that granting access:

- would unreasonably disclose your personal information; and
- would on balance be contrary to the public interest.

**The due date to make a submission is [DATE].**

If the Treasury does not receive a response by this date, this request will be processed without the benefit of your views.

***If you think an exemption applies to the information***

You can object to the proposed disclosure by making a written submission to the Treasury by the deadline. This submission should set out your position and the reasons for it, explaining:

- what personal information is included in the documents
- why it would be unreasonable to disclose this information, and
- why it would be contrary to the public interest to grant access to this information.

In making the submission on whether it would be unreasonable to disclose the information, you should address the following factors, which must be considered by the Treasury:

- the extent to which the information is well known
- whether you are known to be associated with the matters dealt with in the documents, and
- the availability of the information from publicly accessible sources.

A mere assertion that your information should not be disclosed is unlikely to satisfy the Treasury that it is exempt. Your submission should detail the expected harm if the information is released.

**ATTACHMENT A** to this letter sets out further details about the kind of information the Treasury will consider in assessing submissions.

Please send submissions to [foi@treasury.gov.au](mailto:foi@treasury.gov.au) by **[INSERT DATE]**.

***If you do not object to the Treasury disclosing the information***

Please let us know by sending an email to [foi@treasury.gov.au](mailto:foi@treasury.gov.au) if you do not object to the disclosure of the information so we can proceed with processing the request.

***After submission***

The Treasury will have regard to your submission when making a decision in relation to the request.

If the Treasury is satisfied that information is exempt under the FOI Act, it will attract an exemption from disclosure. The Treasury may refuse access to an entire document with exempt information, or may approve the release of a redacted version of a document with the exempt information removed.

The Treasury will notify you of the decision made in respect of the request. If you disagree with the Treasury's decision, you will have the opportunity to seek a review of the decision before the **document is/documents are** released to the applicant.

***Extensions of time and questions***

If you require further time to respond, or have any questions, please contact the Treasury's FOI team at [foi@treasury.gov.au](mailto:foi@treasury.gov.au) or (02) 6263 2800 to discuss. The Treasury is required to make a decision by a statutory deadline, so an extension may not be available in all circumstances.

Yours sincerely

**[Name]**

**[Position]**

**[Division/Group]**

## ATTACHMENT A

*Guidelines Issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 (FOI Guidelines)* provide guidance on the operation of the FOI Act. The Treasury must have regard to the FOI Guidelines in making a decision in relation to a request, as required by sections 11B(5), 15(5A) and 93A(2) of the FOI Act.

The following attachment includes extracts from FOI Guidelines (version 1.5, June 2019) to provide additional details of the kind of information you may wish to include in a submission to the Treasury.

The latest version of the FOI Guidelines is available from the website of the Office of the Australian Information Commissioner: [www.oaic.gov.au](http://www.oaic.gov.au)

### Personal Privacy – Section 47F

Section 47F applies to ‘personal information’ as defined by the *Privacy Act 1988*:

information or an opinion about an identified individual, or an individual who is reasonably identifiable

- (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.

The FOI Guidelines at paragraph 6.130 gives the examples of a person’s name, address, telephone number,<sup>1</sup> date of birth, medical records, bank account details, taxation information<sup>2</sup> and signature.<sup>3</sup>

Additionally, granting access to the document must constitute an ‘unreasonable disclosure’ for the exemption to apply. Section 47F(2) provides that the Treasury must consider:

- (a) the extent to which the information is well known;
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- (c) the availability of the information from publicly accessible sources;
- (d) any other matters that the agency or Minister considers relevant.

The FOI Guidelines at paragraph 6.14 state that some key factors are whether:

- (a) the author of the document is identifiable<sup>4</sup>
- (b) the documents contain third party personal information
- (c) release of the documents would cause stress on the third party
- (d) no public purpose would be achieved through release.<sup>5</sup>

<sup>1</sup> See *Re Green and Australian and Overseas Telecommunications Corporation* [1992] AATA 252

<sup>2</sup> See *Re Murtagh and Commissioner of Taxation* [1984] AATA 249 and *Re Jones and Commissioner of Taxation* [2008] AATA 834.

<sup>3</sup> See *Re Corkin and Department of Immigration & Ethnic Affairs* [1984] AATA 448.

<sup>4</sup> Note: s 11B(4)(c) provides that when the public interest test is considered, the fact that the author of the document was (or is) of high seniority in the agency is not to be taken into account (see these Guidelines at [6.24]).

<sup>5</sup> *Re McCallin and Department of Immigration* [2008] AATA 477.

## **Public Interest Test – Section 11B**

Section 11A(5) requires the Treasury to give the applicant access to a document that is conditionally exempt, unless (in the circumstances) access to the document at that time would, on balance be contrary to the public interest. Section 47F of the FOI Act is one such conditional exemption.

“Public interest” is not defined for the purposes of the FOI Act, but section 11B of the FOI Act and the FOI Guidelines set out factors the Treasury must consider and must not consider when determining if disclosure is contrary to the public interest.

### Public interest factors favouring disclosure

Section 11B(3) of the FOI Act requires the Treasury to consider whether disclosure would:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

In addition to the factors listed above, the most common factors that the Treasury considers are whether disclosure would:

- inform the community of the Government’s operations
- reveal the reason for a government decision and any background or contextual information that informed the decision
- enhance the scrutiny of government decision making
- advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies
- contribute to innovation and the facilitation of research.

### Public interest factors against disclosure

Common issues the Treasury will consider include whether the proposed disclosure might:

- harm the interests of an individual or group of individuals
- prejudice a person’s right to privacy
- impede the administration of justice for one person or everyone generally
- prejudice an agency’s ability to obtain confidential information or similar information in the future

Factors not relevant to the public interest test

Section 11B(4) provides that Treasury must not take into account that:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- (b) access to the document could result in any person misinterpreting or misunderstanding the document;
- (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- (d) access to the document could result in confusion or unnecessary debate.



[Name of applicant]  
By email: [address]

Dear [name of applicant]

**Freedom of Information Third Party Consultation – Business information**

The Department of the Treasury (the **Treasury**) has received the following request seeking documents under the *Freedom of Information Act 1982* (the **FOI Act**):

[quote of request(s)]

The following documents in scope of this request appears to contain your business information:

No.	Description
1.	[insert]
2.	

I am writing to seek your views as to whether any information in the documents falls into one or more of the following categories, attracting an exemption from disclosure under the FOI Act: *(delete any irrelevant exemptions)*

- information for which disclosure would found an action for breach of confidence (section 45);
- trade secrets (section 47(1)(a));
- information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed (section 47(1)(b));
- information that would, or could reasonably be expected to, unreasonably affect you adversely in respect of lawful business or professional affairs, or affect your organisation or undertaking in respect of its lawful business, commercial or financial affairs, and is contrary to the public interest to release (section 47G(1)(a)); or
- information that if disclosed could reasonably be expected to prejudice the future supply of information to the Commonwealth for the purpose of the administration of a law and is contrary to the public interest to release (section 47G(1)(b)).

The due date for submissions is [DATE].

If the Treasury does not receive a response by this date, this request will be processed without the benefit of your views.

***If you think an exemption applies to the information***

You can object to the proposed disclosure by making a written submission to the Treasury by the deadline. This submission should set out your position and the reasons for it, explaining *how* the information in the documents meets the criteria under section 45, section 47 or section 47G of the FOI Act. If you wish to rely on section 47G, your submission should also include arguments as to why disclosure of the information is contrary to the 'public interest'. *(delete any irrelevant exemptions)*

A mere assertion that your information should not be disclosed is unlikely to satisfy the Treasury that it is exempt. Your submission should detail the expected harm if the information is released. This might include, for example, details of how the information could provide competitors with an unfair advantage, or cause unreasonable reputational damage. **ATTACHMENT A** to this letter sets out further details about the kind of information the Treasury will consider in assessing submissions.

Please send submissions to [foi@treasury.gov.au](mailto:foi@treasury.gov.au) by **[INSERT DATE]**.

***If you do not object to the Treasury disclosing the information***

Please let us know by sending an email to [foi@treasury.gov.au](mailto:foi@treasury.gov.au) if you do not object to the disclosure of the information so we can proceed with processing the request.

***After submission***

The Treasury will have regard to your submission when making a decision in relation to the request.

If the Treasury is satisfied that information is exempt under the FOI Act, it will attract an exemption from disclosure. The Treasury may refuse access to an entire document with exempt information, or may approve the release of a redacted version of a document with the exempt information removed.

The Treasury will notify you of the decision made in respect of the request. If you disagree with the Treasury's decision, you will have the opportunity to seek a review of the decision before the **document is/documents are** released to the applicant.

***Extensions of time and questions***

If you require further time to respond, or have any questions, please contact the Treasury's FOI team at [foi@treasury.gov.au](mailto:foi@treasury.gov.au) or (02) 6263 2800 to discuss. The Treasury is required to make a decision by a statutory deadline, so an extension may not be available in all circumstances.

Yours sincerely

**[Name]**

**[Position]**

**[Division/Group]**



## ATTACHMENT A

*Guidelines Issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 (FOI Guidelines)* provide guidance on the operation of the FOI Act. The Treasury must have regard to the FOI Guidelines in making a decision in relation to a request, as required by sections 11B(5), 15(5A) and 93A(2) of the FOI Act.

The following attachment includes extracts from FOI Guidelines (version 1.5, June 2019) to provide additional details of the kind of information you may wish to include in a submission to the Treasury. Please refer to the FOI Guidelines for more information on the FOI Act and each type of exemption.

The latest version of the FOI Guidelines is available from the website of the Office of the Australian Information Commissioner: [www.oaic.gov.au](http://www.oaic.gov.au)

*(delete information on any irrelevant sections)*

### Information provided in confidence – Section 45

5.155 Section 45(1) provides that a document is an exempt document if its disclosure would found an action by a person (other than an agency or the Commonwealth) for breach of confidence. In other words, the exemption is available where the person who provided the confidential information would be able to bring an action under the general law for breach of confidence to prevent disclosure, or to seek compensation for loss or damage arising from disclosure.<sup>1</sup>

...

5.158 A breach of confidence is the failure of a recipient to keep confidential, information which has been communicated in circumstances giving rise to an obligation of confidence.<sup>2</sup> The FOI Act expressly preserves confidentiality where that confidentiality would be actionable at common law or in equity.<sup>3</sup>

5.159 To found an action for breach of confidence (which means s 45 would apply), the following five criteria must be satisfied in relation to the information:<sup>4</sup>

- it must be specifically identified
- it must have the necessary quality of confidentiality
- it must have been communicated and received on the basis of a mutual understanding of confidence
- it must have been disclosed or threatened to be disclosed, without authority
- unauthorised disclosure of the information has or will cause detriment.<sup>5</sup>

<sup>1</sup> See the Explanatory Memorandum, *Freedom of Information Bill 1992; Re Kamminga and Australian National University* [1992] AATA 84; dissenting judgment of Gummow J in *Corrs Pavey Whiting & Byrne v Collector of Customs (Vic)* (1987) 14 FCR 434 [443].

<sup>2</sup> *Coco v AN Clark (Engineers) Ltd* (1969) 86 RPC 41.

<sup>3</sup> *Re Petroulias and Others and Commissioner of Taxation* [2006] AATA 333.

<sup>4</sup> Please note that further information on each of these elements can be found in the FOI Guidelines at guidelines 5.161-5.172.

<sup>5</sup> *Corrs Pavey Whiting & Byrne v Collector of Customs (Vic)* (1987) 14 FCR 434 [443] referring to *Commonwealth v John Fairfax & Sons Ltd* (1980) 32 ALR 485. For examples of the application of these criteria see *Australian Broadcasting Corporation and Commonwealth Ombudsman* [2012] AICmr 11; 'B' and *Department of Immigration and Citizenship* [2013] AICmr 9; ACP

### Trade secrets – Section 47(1)(a)

- 5.199 The term ‘trade secret’ is not defined in the FOI Act. The Federal Court has interpreted a trade secret as information possessed by one trader which gives that trader an advantage over its competitors while the information remains generally unknown.<sup>6</sup>
- 5.200 The Federal Court referred to the following test in considering whether information amounts to a trade secret:
- the information is used in a trade or business
  - the owner of the information must limit its dissemination or at least not encourage or permit its widespread publication
  - if disclosed to a competitor, the information would be liable to cause real or significant harm to the owner of the information.<sup>7</sup>

### Information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed – Section 47(1)(b)

- 5.204 To be exempt under s 47(1)(b) a document must satisfy two criteria:
- the document must contain information that has a commercial value either to an agency or to another person or body, and
  - the commercial value of the information would be, or could reasonably be expected to be, destroyed or diminished if it were disclosed.<sup>8</sup>
- 5.205 ... The following factors may assist in deciding in a particular case whether information has commercial value:
- whether the information is known only to the agency or person for whom it has value or, if it is known to others, to what extent that detracts from its intrinsic commercial value
  - whether the information confers a competitive advantage on the agency or person to whom it relates — for example, if it lowers the cost of production or allows access to markets not available to competitors
  - whether a genuine ‘arm’s-length’ buyer would be prepared to pay to obtain that information<sup>9</sup>
  - whether the information is still current or out of date (out of date information may no longer have any value)<sup>10</sup>
  - whether disclosing the information would reduce the value of a business operation or commercial activity — reflected, perhaps, in a lower share price.

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*Magazines Limited and IP Australia* [2013] AICmr 20; *Upper Dumaresq Action Group and Australian Competition and Consumer Commission* [2013] AICmr 47; and *‘AF’ and Department of Immigration and Citizenship* [2013] AICmr 54.

<sup>6</sup> *Department of Employment, Workplace Relations and Small Business v Staff Development and Training Company* (2001) 114 FCR 301.

<sup>7</sup> *Lansing Linde Ltd v Kerr* (1990) 21 IPR 529 per Staughton LJ [536], cited in *Searle Australia Pty Ltd and Public Interest Advocacy Centre and Department of Community Services and Health* (1992) 108 ALR 163.

<sup>8</sup> See *McKinnon and Department of Immigration and Citizenship* [2012] AICmr 34.

<sup>9</sup> *Re Cannon and Australian Quality Egg Farms* (1994) 1 QAR 491 and *Re Hassell and Department of Health of Western Australia* [1994] WAICmr 25.

<sup>10</sup> *Re Angel and the Department of the Arts, Heritage and the Environment; HC Sleigh Resources Ltd and Tasmania* [1985] AATA 314

5.207 The second requirement of s 47(1)(b) — that it could reasonably be expected that disclosure of the information would destroy or diminish its value — must be established separately by satisfactory evidence. It should not be assumed that confidential commercial information will necessarily lose some of its value if it becomes more widely known.<sup>11</sup> Nor is it sufficient to establish that an agency or person would be adversely affected by disclosure; for example, by encountering criticism or embarrassment. It must be established that the disclosure would destroy or diminish the commercial value of the information.<sup>12</sup>

**Information that would, or could reasonably be expected to, unreasonably affect a business adversely in respect their lawful business affairs and is contrary to the public interest to release – Section 47G(1)(a)**

6.187 The presence of ‘unreasonably’ in s 47G(1) implies a need to balance public and private interests. The public interest, or some aspect of it, will be one of the factors in determining whether the adverse effect of disclosure on a person in respect of his or her business affairs is unreasonable...<sup>13</sup>

6.188 The test of reasonableness applies not to the claim of harm but to the objective assessment of the expected adverse effect. For example, the disclosure of information that a business’ activities pose a threat to public safety, damage the natural environment; or that a service provider has made false claims for government money may have a substantial adverse effect on that business but may be reasonable in the circumstances to disclose. Similarly, it would not be unreasonable to disclose information about a business that revealed serious criminality.<sup>14</sup> These considerations require a weighing of a public interest against a private interest, preserving the profitability of a business, but at this stage it bears only on the threshold question of whether the disclosure would be unreasonable.<sup>15</sup>

In addition to the information above, the Treasury will consider:

- the actual damage that could occur to a business if the information were to be released, and
- whether the information is publicly available, or can be discovered from existing public information.

**Information that could reasonably be expected to prejudice the future supply of information to the Commonwealth for the purpose of the administration of a law and is contrary to the public interest to release – Section 47G(1)(b)**

6.198 This limb of the conditional exemption comprises two parts:

- a reasonable expectation of a reduction in the quantity or quality of business affairs information to the government
- the reduction will prejudice the operations of the agency.<sup>16</sup>

<sup>11</sup> See for example ‘D’ and *Civil Aviation Safety Authority* [2013] AICmr 13.

<sup>12</sup> *McKinnon and Department of Immigration and Citizenship* [2012] AICmr 34 [45]. In *Australian Broadcasting Corporation and Australian Fisheries Management Authority* [2016] AICmr 43 [38]-[39], information relating to the design and performance of a fishing net was found to be commercially valuable information. The information was specific technical information that has commercial value such that a competitor would be willing to pay for it, and that value would be diminished by disclosure. However, as at August 2016 this decision is on appeal to the AAT.

<sup>13</sup> As explained by Forgie DP in *Bell and Secretary, Department of Health (Freedom of Information)* [2015] AATA 494 [48].

<sup>14</sup> *Searle Australia Pty Ltd v Public Interest Advocacy Centre and Department of Community Services and Health* (1992) 108 ALR 163.

<sup>15</sup> In relation to the test of reasonableness, see ‘E’ and *National Offshore Petroleum Safety and Environmental Management Authority* [2012] AICmr 3.

<sup>16</sup> *Re Angel and the Department of the Arts, Heritage and the Environment; HC Sleigh Resources Ltd and Tasmania* [1985] AATA 314.

6.199 There must be a reasonable likelihood that disclosure would result in a reduction in both the quantity and quality of business information flowing to the government.<sup>17</sup> In some cases, disclosing the identity of the person providing the business information may be sufficient to prejudice the future supply of information...<sup>18</sup>

6.200 Where the business information in question can be obtained compulsorily, or is required for some benefit or grant, no claim of prejudice can be made. No prejudice will occur if the information in issue is routine or administrative (that is, generated as a matter of practice).<sup>19</sup>

Based on the reasoning in FOI Guideline 6.200, the Treasury considers that no claim of prejudice can be made in relation to documents provided in pursuit of satisfying the conditions of an approval.

### **Public Interest Test – Section 11B**

Section 11A(5) requires the Treasury to give the applicant access to a document that is conditionally exempt, unless (in the circumstances) access to the document at that time would, on balance be contrary to the public interest. Section 47F of the FOI Act is one such conditional exemption.

“Public interest” is not defined for the purposes of the FOI Act, but section 11B of the FOI Act and the FOI Guidelines set out factors the Treasury must consider and must not consider when determining if disclosure is contrary to the public interest.

#### Public interest factors favouring disclosure

Section 11B(3) of the FOI Act requires the Treasury to consider whether disclosure would:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

In addition to the factors listed above, the most common factors that the Treasury considers are whether disclosure would:

- inform the community of the Government’s operations
- reveal the reason for a government decision and any background or contextual information that informed the decision
- enhance the scrutiny of government decision making
- advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies
- contribute to innovation and the facilitation of research.

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<sup>17</sup> *Re Maher and the Attorney-General’s Department* [1986] AATA 16, *Re Telstra and Australian Competition and Consumer Commission* [2000] AATA 71.

<sup>18</sup> *Re Caruth and Department of Health, Housing, Local Government and Community Services* (1993) 53 FOIR 65.

<sup>19</sup> *Re Kobelke and Minister for Planning* [1994] WAICmr 5.

### Public interest factors against disclosure

Common issues the Treasury will consider include whether the proposed disclosure might:

- harm the interests of an individual or group of individuals
- prejudice a person's right to privacy
- impede the administration of justice for one person or everyone generally
- prejudice an agency's ability to obtain confidential information or similar information in the future

### Factors not relevant to the public interest test

Section 11B(4) provides that Treasury must not take into account that:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- (b) access to the document could result in any person misinterpreting or misunderstanding the document;
- (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- (d) access to the document could result in confusion or unnecessary debate.



[date]

FOI ref: [FOI ref]

[Name and address of applicant]

By email: [address]

Dear [name]

### Freedom of Information Request - Decision

I refer to your request to the Department of the Treasury (the **Treasury**) on [date], for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

[quote of request(s)]

I am an authorised decision maker under section 23 of the FOI Act.

#### Decision

The Treasury holds no documents within the scope of your request. I am therefore refusing your request under section 24A(1) of the FOI Act.

I arranged for officers in my division to search Treasury records for material relevant to your request. These searches included searches of **emails and the Treasury's file management system**. I am satisfied that no such documents exist.

#### Rights of Review

A statement setting out your rights of review in this matter is attached.

Yours sincerely

[Name of decision maker]

[Position]

[Division]

## INFORMATION ON RIGHTS OF REVIEW

### 1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to [FOI@Treasury.gov.au](mailto:FOI@Treasury.gov.au).

**OR**

### 2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

**AND/OR**

### 3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.



[date]

FOI ref: [FOI ref]

[Name and address of applicant]

By email: [address]

Dear [name of applicant]

### Freedom of Information Request – Decision

I refer to your request to the Department of the Treasury (the Treasury) on [date], for access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

[quote of request(s)]

I am an authorised decision maker under section 23 of the FOI Act.

#### **Decision**

The Treasury has identified [number] documents in the scope of your request, listed in the attached schedule. I have decided to release the documents in full.

The documents for release are attached. *(delete if consultation or charges sections included)*

#### **Third Party Consultation (delete section if no consultation undertaken)**

As part of the decision making process, I undertook third party consultation about whether documents subject to the request attracted an exemption under the FOI Act. My decision does not fully agree with the submissions I received during the consultation process.

Because of this, I cannot provide access to the documents until the relevant third party/parties have exhausted their right to have this decision reviewed. This will usually be 30 days from the date of this decision unless there is an application for review.

#### **Charges (delete section if charges paid in full or no charges apply)**

The preliminary assessment of the charge for processing your request was \$[amount]. You paid a deposit of \$[amount], leaving a balance of \$[amount].

Under section 29 of the FOI Act you are required to pay the balance of charges in full before the documents are released to you. Please email [foi@treasury.gov.au](mailto:foi@treasury.gov.au) to authorise payment by the same method you used to pay the deposit, or to update your payment details.

#### **Rights of Review**

A statement setting out your rights of review in this matter is attached.



***Disclosure Log***

The Treasury endeavours to publish all documents disclosed in response to FOI requests on the Treasury website on the same day that the decision is sent to an applicant. However, the Treasury does not publish documents containing personal or business information if it would be unreasonable to publish the information. This is consistent with the arrangements established by section 11C of the FOI Act.

Yours sincerely

[Name of decision maker]

[Position]

[Division/Group]

**[FOI ref] Document Schedule**

Doc No.	Description	Decision
1.		
2.		

## INFORMATION ON RIGHTS OF REVIEW

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Section 54 of the FOI Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to [FOI@Treasury.gov.au](mailto:FOI@Treasury.gov.au).

**OR**

### 2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

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- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

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A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

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SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.



[date]

FOI ref: [FOI ref]

[Name and address of applicant]

By email: [address]

Dear [name of applicant]

### Freedom of Information Request – Decision

I refer to your request to the Department of the Treasury (the Treasury) on [date], for access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

[quote of request(s)]

I am an authorised decision maker under section 23 of the FOI Act.

#### **Decision**

The Treasury has identified [number] documents in the scope of your request, listed in the attached schedule. I have decided to release [number] documents in full. I have decided to release [number] documents in part. I have decided to refuse access to [number] documents in full. Irrelevant information in the documents has been deleted under section 22 of the FOI Act. My decision on each document is shown in the schedule. *(delete inapplicable sentences)*

The documents for release are attached. *(delete if consultation or charges sections included)*

Further information regarding my decision is set out below.

#### **Third Party Consultation (delete section if no consultation undertaken)**

As part of the decision making process, I undertook third party consultation about whether documents subject to the request attracted an exemption under the FOI Act. My decision does not fully agree with the submissions I received during the consultation process.

Because of this, I cannot provide access to the documents until the relevant third party/parties have exhausted their right to have this decision reviewed. This will usually be 30 days from the date of this decision unless there is an application for review.

#### **Charges (delete section if charges paid in full or no charges apply)**

The preliminary assessment of the charge for processing your request was \$[amount]. You paid a deposit of \$[amount], leaving a balance of \$[amount].

Under section 29 of the FOI Act you are required to pay the balance of charges in full before the documents are released to you. Please email [foi@treasury.gov.au](mailto:foi@treasury.gov.au) to authorise payment by the same method you used to pay the deposit, or to update your payment details.

**Material Considered**

The material to which I have had regard in making this decision includes:

- the scope of the FOI request
- the content of the documents subject to your request;
- the relevant provisions in the FOI Act;
- advice from subject matter experts within the Treasury;
- third party responses to third party consultation; and *(delete if no third party consultation)*
- the Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 (the **FOI Guidelines**).

**Reasons for decision****Material deleted pursuant to Section 22**

Section 22 of the FOI Act allows information that is irrelevant to your request to be deleted.

The documents in the scope of your request contains the names, signatures and direct phone numbers of government employees. We informed you in our email of [date] that it is our usual practice not to include the personal information of government employees and invited you to inform us if you did not agree with us processing the request on this basis. As we did not hear from you/As you agreed with this request, the personal information of government employees has been deleted under section 22 of the FOI Act.

The documents in the scope of your request also contains material that that is irrelevant to your request. Therefore, this irrelevant has been deleted material pursuant to section 22 of the FOI Act. *(delete if irrelevant)*

**[Insert any other exemptions, and the public interest test for conditional exemptions, with reasons]**

**Rights of Review**

A statement setting out your rights of review in this matter is attached.

**Disclosure Log *(delete section if no documents released)***

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Yours sincerely

[Name of decision maker]

[Position]

[Division/Group]

**[FOI ref] Document Schedule**

Doc No.	Description	Decision
1.		
2.		

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