

Freedom of Information Procedure Manual

Legal Branch 2023



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Version Control table

Date updated	Section	Brief description /purpose
25.03.2024	Charges	OAIC Review - FOI Complaint LEX 63684
1.05.2024	Third party consultation disclosure log	
28.06.2024	Sections 4.2.17 and 7.3	Updates to file transfer to MO
17.07.2024	Section 4.2.12	Further updates to clarify process on charges sampling - OAIC Review - FOI Complaint LEX 63684

Review dates

Date	Brief description /purpose	Outcome
June 2025	Review to align with implementation of process updates	
January 2026	Wholesale review	
Juen 2026		

1. Purpose

The purpose of this manual is to provide guidance to FOI officers and legal counsels processing FOI requests and promote a consistent approach to the tasks undertaken by the FOI team at the Department of Industry, Science and Resources (the department). It is divided into several parts, each covering different elements of the FOI process.

It may be appropriate to depart from the procedures in this manual in certain circumstances. Generally, this should only be done following discussion with the General Counsel or the Principal Legal Counsel responsible for FOI. Procedures in this manual cannot be altered if it will result in any statutory requirements not being met.

2. What is FOI?

Freedom of Information (FOI) means the right of the public to access information held by the Australian Government, including ministers. The right is promoted and enforced in the *Freedom of Information Act 1982* (FOI Act). Importantly, any person is entitled to make an FOI request and an individual's identity is not a relevant consideration in processing the request.

The FOI Act gives everyone the right to access copies of documents (excepting exempt documents) held by agencies and ministers.

The objects of the FOI Act are broadly to:

- give the Australian community access to information held by the Government;
- increase recognition that information held by the Government is to be managed for public purposes and is a national resource; and
- facilitate and promote public access to information promptly, and at the lowest reasonable cost.

2.1 Role of the Office of the Australian Information Commissioner

FOI is subject to oversight by the Office of the Australian Information Commissioner (OAIC/ Information Commissioner). The FOI Commissioner is an independent statutory office holder appointed under section 14(2) of the *Australian Information Commissioner Act 2010*.

The Information Commissioner can review decisions made by agencies and ministers under the FOI Act, upon application. Refer to [Part 13](#) for information on reviews of FOI decisions.

2.2 Department's approach to FOI

The department has a 'pro transparency' approach to FOI. This means that documents validly requested under the FOI Act are to be disclosed unless there are reasonable grounds under the FOI Act to exempt them.

Due to the diverse and strategic range of priorities this department delivers, the department's FOI team is responsible for processing a high volume of unusually large and complex FOI requests. Consistent with the object of promoting prompt access to information at the lowest reasonable cost, the department will usually request FOI applicants agree to exclude:

- personal information;
- duplicate documents; and
- documents already in the applicant's possession.

All other information contained within documents falling within the scope of a valid request will be disclosed unless there is a reasonable basis to apply an exemption.

The department's FOI team is responsible for assessing the sensitivities identified by line areas and recommending decisions most likely to withstand external review.

2.3 Principles underpinning FOI decision making

The Information Commissioner has set out [guidance on central principles](#) that underpin the right to obtain access to documents held by government (see Part 1 of the OAIC Guidelines). These include:

- subject to the FOI Act, every person has a legally enforceable right to obtain access to government documents (s 11(1));
- a person's reasons for seeking access to a document, or an agency or minister's belief about a person's reasons for seeking access, are not relevant (s 11(2));
- the functions and powers given by the FOI Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost (s 3(4)); and
- the FOI Act does not limit any power to give access to information under other legislative or administrative arrangements (s 3A(2)).

2.3.1 Principles of good decision making under the FOI Act

The public expects agencies and ministers to act fairly, transparently and consistently in their administrative decision making and to be accountable for the decisions they make. The quality of decisions under the FOI Act is particularly important given the integral role freedom of information requests can have in securing open government.

Decisions made under the FOI Act must be consistent both with the requirements of the Act and with general principles of good decision making. Those principles are outlined at a high level below:

1. Lawfulness

A decision that is made under legislation must conform to the requirements of the legislation, and be made by an authorised Decision Maker.

Decision making under the FOI Act must take into account the objects in s 3 of the FOI Act which embody a presumption of open government that is relevant to all FOI decision making.

2. Authorised Decision Makers

The FOI Act specifies that a decision relating to a request made to an agency may be made by the responsible minister or the principal officer of the agency, or by officers who are properly authorised (s 23(1)).

Authorised officers may obtain assistance from other officers, and take advice and recommendations into account, but they are nevertheless responsible for reaching an independent decision and exercising any discretion.

The Secretary of the department has authorised all SES to make decisions on primary requests made under the FOI Act. All officers SES Band 2 and above are authorised to make internal review decisions under the FOI Act (see [Appendix A](#)).

3. Procedural Fairness

A decision that directly affects the rights or interests of a person or organisation must be made in accordance with the principles of natural justice (also known as procedural fairness). The Decision Maker is required to follow a fair decision-making process, complying with the 'bias rule' and the 'hearing rule'.

Bias rule and FOI decision making

The bias rule requires a Decision Maker to be impartial and have no personal stake in the decision to be made. The Decision Maker must be free of both actual and

apparent bias, that is, of conduct that might appear to a fair-minded observer to affect their impartiality in reaching a decision.

Hearing rule and FOI decision making

The hearing rule requires that a person who could be adversely affected by a decision be notified that a decision may be made and is given an opportunity to express their views before that occurs. The nature of this 'notice and comment' procedure can vary from one decision or context to another. The minimum requirement, however, is that a person should be given sufficient information and a reasonable opportunity to comment, to ensure that procedural fairness is upheld.

4. Facts and Evidence

A central obligation of a Decision Maker is to identify and separate the 'material questions of fact'; gather and assess information or evidence to support each finding of fact; and explain how each finding of fact was reached.

5. Reasons

Members of the public are entitled to know the reasons why an administrative decision that affects them has been made. Giving reasons promotes fairness, transparency and accountability. It allows the person affected by the decision the opportunity to have the decision explained and to seek review if they wish.

Section 26 of the FOI Act requires an applicant to be given the reasons for a decision to refuse or defer access to a document. The section specifies the matters that must be included in the statement of reasons, including the findings on material questions of fact, the public interest factors taken into account in applying a conditional exemption, the name and designation of the agency officer making a decision, and information about the applicant's review rights

6. Accountability

Decision Makers are accountable for their decisions. The FOI Act contains detailed provisions for review and oversight of FOI decision making by the OAIC.

3. Matter management

3.1 Allocating new requests

New FOI requests are sent to the FOI inbox (FOI@industry.gov.au) and will be allocated by a Senior FOI Officer in consultation with the Principal Legal Counsel responsible for FOI.

Note! You will be designated an Outlook tag colour. Other team members will sometimes tag new matters assigned to you and other emails relating to your matters to increase clarity in the FOI inbox.

3.2 Setting up a request

Once allocated, matters must be set up in LEX, Content Manager, and Outlook.

There are key terms the FOI team uses in LEX to ensure consistency in record keeping and accurate reporting. Please refer to [Appendix C](#) for LEX terminology.

You will need to continue to update the LEX file as the matter progresses

3.2.1 LEX

- a. Go to [LEX](#)
- b. Select 'log in again' and 'ok'
- c. In the top header, select 'Add Matter'
- d. Fill out the details section, noting that some information such as Significant, Decision Maker and Action Officer will need to be updated as this information is confirmed.
 - a. The figure below shows how a matter should look once the information is all available.
- e. Start the clock from the date the request is received.
 - i. **Matter Name:** Applicant Name (Organisation) – IEFXX/XXXX
 - ii. **Instructing Officer:** Decision Maker: XXX/Action Officer: XXX
 - iii. **Description:** [scope summary] - LEX XXXXX
 - iv. **Matter's Owner:** name of the actioning FOI officer
 - v. **2C Section – Name:** name of the second counselling FOI Officer
 - vi. **Group – Division – Branch:** insert the Decision Maker's branch

- vii. **Outsourced:** select 'In-house' or 'Outsourced'. If outsourced, select:
- the organisation the matter will be outsourced to
 - outsource reason (this will generally be 'overflow').
- viii. **Matter's Owner Section:** Information Law
- ix. **3C name:** leave this blank
- x. **Category:** FOI Request / FOI internal review / FOI consultation / FOI enquiry
(select as appropriate)
- xi. **Type of Work:** Legal Work
- xii. **Significant:** option – select low, medium, or high (refer to 'Preliminary Priority Rating') * Please ensure Priority is recorded in the following way

Significant	Medium
Type of Work	Legal Work
On-going - Completed	On-going
Estimated Costs - Charges	
FOI Deposit	

Status	Contacts/Description	Background
		Risk: Medium low level journalistic interest

The risk *reason* should be provided in the background, copied from the wording in the PPR table.

- -
- xiii. **On-going – Completed:** Ongoing
- Update this to complete when the matter is finalised
- xiv. **Start Date:** date request was received
- xv. **Access level:** unrestricted

Further information will be entered at a later date:

- i. **Estimated Costs /Charges:** leave blank (use 'Invoices' tab instead)
- ii. **FOI Deposit:** leave blank (use 'Invoices' tab instead)
- iii. **End Date:** date the matter was finalised
- iv. **Contract End Date:** leave blank
- v. **Access level:** leave as 'Unrestricted' for FOI matters
- f. In the 'Status' field, enter:
 - Current status: [insert]
 - The date the request was received
 - See '10.4 Standard LEX terminology' to use in this field.

Note! To keep FOI reporting accurate, it is essential that 'Current status:' and 'Next steps:' are entered exactly and kept up to date.

Example:

Status	Contacts/Description	Background
Current status: FOI team drafting decision. 04/04/2022 - request received. 05/04/2022 - notify HoD email sent. 06/04/2022 - HoD confirms DM. Search minute sent to DM. 07/04/2022 - DM confirms AO. 08/04/2022 - scope discussion with line area. Email sent to DM and AO summarising discussion. 13/04/2022 - acknowledgement sent to Applicant. 13/04/2022 - applicant confirms no personal information or publicly available documents. 14/04/2022 - Policy area requires extension for search minute 21/04/2022. Requested 14 day extension under 15AA. If accepted new due date will be 18 May 2022 (previous due date 4 May). 22/04/2022 - follow-up sent to line area re search minute. 26/04/2022 - AO advises search minute will be completed 29/04/2022. 03/05/2022 - due date for search minute extended to 6/05/2022. 10/05/2022 - search minute and documents received.		

- g. In the 'Contacts/Description' field, enter the contact information of the applicant
 - This will generally include their name, email, phone and/or address
- h. In the 'Background' section, enter the scope of the request and any other relevant information using the three headings "NEXT STEPS, RISK FACTORS, SCOPE"
- i. Select 'Save & view'
- j. From the Summary page, in the Turnaround Clock section, select '(start)'
 - Select the date the request was received and click 'Save'

1.1.1. Guidelines for FOI naming conventions

Guidelines for FOI naming conventions can be found in DocHub [here](#). Do not include the LEX number in the matter title as the

Description

Documents relating to Commercialisation Division planning day - ~~LEX 74982~~

3.2.2 Content Manager (TRIM)

- a. Open the Content Manager Application

- b. Select the blue plus sign in the top-left corner of the page
- c. Select 'Electronic File' and 'OK'
- d. Enter the following information:
 - a. **Title:** Freedom of Information (FOI) Request – (Applicant) – LEX XXXXX
 - b. **Business Classification:** ADMINISTRATIVE FUNCTIONS 2.0 - LEGAL SERVICES - Routine Operational
 - c. **Business Unit Owning the File:** Legal 6413
 - d. **Container:** SC2011/116

(Note that you will need to save your folder in the correct Division or Branch container under the header container SC2011/116)

 - e. **Protective Marker:** Sensitive (DLM)
- e. Select 'OK'
- f. Right click on the newly-created file and select Send To a Save Reference. Save the file on your computer (TRIM file)
- g. Go back into the matter in LEX
 - Select the 'Attachments' tab
 - Select Type: TRIM file
 - Select 'Choose file' and choose the Content Manager file (TRIM file) you just saved
 - Select 'Save'.

The LEX and the Content Manager files are now linked for easy cross-referencing.

3.2.3 Outlook

- a. Under the matter owner's name (likely your name) in the FOI inbox, add a folder for the matter using the following title format:

[LEX number] – [Applicant (applicant type)] – [IEFXX/XXXX]
- b. Drag all relevant emails to this folder from the FOI inbox. This is where all relevant emails for this matter will be kept so they are accessible by the entire FOI team as needed.
- c. In the header at the top of the screen, select the 'Content Manager' tab
- d. Select 'Check in Styles'

- e. In the panel on the right side of the screen, click the blue plus button to add a new matter
- f. In the new window, enter the following information:
 - **Name:** 5-digit LEX number
 - **Record Type:** Electronic Document
 - **Container:** select the Content Manager container
 - Untick the 'Show check in dialog' box
 - Select 'Add' and find the newly-created Outlook folder
 - Select 'OK'
- g. Find the matter in the panel on the right side of the screen, select and click 'clear backlog'. This will save any email in the folder to Content Manager.

You have now set up this request.

Remember to update LEX by adding the Content Manager file number (IEFXX/XXXX) to the end of the matter name.

3.2.4 Second counselling

Second counselling is an essential part of the FOI process. A second counselling officer will be identified when a new FOI matter is being set up – it will usually be a Senior FOI Officer but in some cases it may be the Principal Legal Counsel responsible for FOI.

The actioning FOI Officer is responsible for their FOI matters and must be proactive in the management of an FOI request. This includes seeking help where required from their second counselling officer and critically engaging with the subject matter and management of the request. A second counselling officer is responsible for reviewing draft documents and emails and advising the actioning FOI Officer on key stages of the FOI process.

The actioning FOI officer and second counselling officer should communicate regularly with one another throughout the life of an FOI process to ensure that both officers are comfortable with the overall approach and strategy taken in processing the request.

Tip! Use the twice weekly FOI meetings to raise any concerns you have with the broader team.

Most emails should be second counselled before being sent (see below). This includes:

- **ALL** external emails

- Internal emails providing notice to the relevant Head of Division or making recommendations to the Decision Maker (see Steps [3](#), [5](#) and [9](#) in [Part 4](#) below).

If there is doubt whether an email should be second counselled, please check with a Senior FOI Officer or send it to be second counselled as a precautionary measure.

Tips for Second Counselling work

When second counselling work, a second counselling officer must put themselves in the position of the actioning officer; inquire into the matter and ask the same questions that they would ask if they were the actioning officer undertaking the work themselves. For example, the second counsel must:

- Consider the overall strategy regarding the handling of the matter. Do they agree with the strategy proposed by the actioning officer or could things be done in a more logical, accurate or efficient way? As set out above, the actioning officer and second counsel should have already discussed and agreed upon the strategy and the work provided to a second counselling officer should accord with that strategy.
- Inquire into the matter and check the quality and accuracy of the work undertaken by the responsible officer. For example, check documents identified do fall within the scope of the request, check the applicant's identity has been sufficiently authenticated, check third party and courtesy consultations have been appropriately conducted and then considered in the course of processing the request check exemptions relied upon have been correctly applied to the documentation, consider the reasoning provided for exemptions and whether the reasoning can be strengthened and improved.

3.2.5 Sending correspondence

All correspondence with internal client areas or external persons (including other Commonwealth agencies and the Ministers' Offices) must:

- be sent from the FOI inbox (FOI@industry.gov.au); and
- carbon copy (cc) the FOI inbox.

This ensures that all correspondence is accessible to the whole team.

Note! Emails seeking second counsel review may be sent directly from an individual's work email account and do not need to cc in the FOI inbox.

External correspondence

There are some additional considerations to take into account when sending correspondence outside the department. The following are appropriate precautions to protect staff engaging with external applicants and ensure the department is able to confirm when external recipients have received correspondence.

- Avoid giving personal details to applicants – it is generally appropriate to sign off with the FOI team signature block.
- Always use 'Read' and 'Delivered' receipts when sending emails.
- If an FOI applicant has specifically made requests regarding how correspondence is to be sent:
 - send all correspondence to their specified email address; or
 - mail/post hard copy correspondence to their specified address (using express post, which allows for tracking).

Remember! All external correspondence must be second counselled before it is sent.

Hard copy correspondence

Most correspondence is sent to and from the FOI inbox. However, in some cases an FOI request may be submitted in hard copy to the department, or it may be appropriate to send hard copy communications to an applicant.

Where an applicant requests hard copy communications, it must be noted in LEX. The FOI Manager must also be notified of any request or proposal for documents to be sent in hard copy.

4. Processing FOI requests

The FOI Act requires the department to process FOI requests within 30 calendar days (s 5(b)). Each step for making and processing FOI requests is set out below.

See [Appendix E](#) for the timeline set out in full.

There is guidance available via ServiceNow articles for line areas' frequently asked questions. These are linked to in the [Legal Branch OneNote](#) (Information Law Team) and in [Appendix B](#).

4.1 Receiving a request

The department cannot limit the ways in which a person may submit an FOI request, though it must meet certain criteria (see 4.1.1 below) to be a valid request. The [department's website](#) suggests FOI requests be emailed directly to the FOI inbox as this is the simplest method of receiving and processing requests.

4.1.1 Checking the validity of a request

Before beginning to process an FOI request, you must check whether the request is valid under section 15 of the [FOI Act](#).

A valid request must:

- a. be in writing;
- b. state that the request is an application for the purposes of the FOI Act;
- c. provide sufficient information concerning the document(s) requested to enable the department to identify the document(s); and
- d. give details of how notices and other communication may be sent.

4.1.2 Requests for applicant's own personal information

If the applicant is seeking personal information, the FOI officer must verify the applicant's identity prior to processing the request. This is done by requesting evidence of the applicant's identity, such as a driver's licence or other valid form of ID.

4.1.3 Transferring requests

Sometimes the department will receive a request for documents that are either not within the Department's possession or are more closely connected with another agency or minister. When this occurs, the department will:

1. Notify the applicant of the agency the department considers better placed to process their FOI request and indicate the department will seek the agency's agreement to transfer the FOI request under section 16 of the FOI Act.

Note! Remember not to disclose personal information about the applicant until the agency agrees to the transfer.

2. Contact the relevant agency or minister and request their agreement to transfer the request. If agreed, the FOI Officer can then use the relevant email template to notify the applicant that the request has been transferred, and can then close the file in LEX with the correct file notes.
3. If the agency or minister does not accept transfer, the FOI Officer will write to the applicant to notify them (even where that other department has asked us not to inform the applicant), and offer two options:
 - a. the applicant may wish to withdraw the FOI request to the department; or
 - b. the applicant may wish to proceed with the FOI request, noting the department's preliminary view is that it may not hold the documents sought.

The FOI Officer is to inform the other department that we invite the applicant to withdraw the request and consider resubmitting it to the department most likely to hold the relevant documents.

4. The FOI Officer will then proceed with the FOI request or close down the file, depending on the applicant's decision.

4.2 FOI processing steps

Once the request is confirmed as valid, the following steps must be completed within the statutory timeframes, as set out in [Table 2](#).

Table 1 – FOI processing steps

Step	Action	Responsible party
<u>1</u>	Set up files	FOI officer
<u>2</u>	Preliminary Priority Rating	FOI officer prepares, cleared by PLC
<u>3</u>	Notify Head of Division (SES Band 2)	FOI officer

<u>4</u>	Nominate Decision Maker	Head of Division
<u>5</u>	Notify Decision Maker of next steps	FOI officer
<u>6</u>	Nominate Action Officer to assist Decision Maker	Decision Maker
<u>7</u>	Conduct searches	Action Officer
<u>7a</u>	<i>Optional step: consider whether scope of request to be refined (s 24AB notice).</i>	<i>FOI Officer in consultation with Action Officer</i>
<u>8</u>	Acknowledge receipt of request	FOI Officer
<u>9</u>	Provide signed search minute and documents to FOI team, identifying potential harm resulting from disclosure and consultations required	Action Officer
<u>10</u>	Review documents	FOI Officer
<u>11</u>	Calculate and recommend charges, using sampling where appropriate, and, if imposed, issue charges to applicant	FOI Officer and Decision Maker
<u>11</u>	If required: conduct courtesy and third party consultations <i>Notify applicant of 30 day extension if third party consultation required</i>	FOI Officer
<u>12</u>	Incorporate consultation comments into assessment of documents	FOI Officer
<u>13</u>	Prepare recommendations and draft notice of decision for Decision Maker	FOI Officer
<u>14</u>	Consider recommendations and decision, sign decision (with or without changes, as discussed with FOI Officer)	Decision Maker

<u>15</u>	Notify relevant Minister's Office of signed decision	FOI Officer
<u>16</u>	Release decision and documents to applicant	FOI Officer
<u>17</u>	Send documents to be uploaded to Disclosure Log	FOI Officer

The table below summarises the statutory timeframe for the processing of FOI requests.

Table 2 – Statutory timeframes

Day	Event
0	Valid request received
14	Acknowledgement due
30	Decision due to applicant if no consultation required or extension granted
60	Decision due to applicant if third party consultation required
Suspension	The FOI processing 'clock' stops when charges are issued, that is, the day the charge letter is emailed (or next day if express posted). The clock restarts on the day a receipt for the payment is received by the department.
Extension	Extensions of up to 30 calendar days can be agreed with the Applicant under section 15AA of the FOI Act. Extensions can also be sought from the Information Commissioner for periods up to and longer than 30 calendar days under section 15AB.

See [Appendix E](#) for a comprehensive summary of the FOI timeline.

Note! It is important to keep the line area up to date with the progress of the FOI request.

Although many communication types are templated for consistency, it is the FOI Officer's role to tailor communication to the line area.

4.2.1 Step One – setting up files

See [Matter Management](#) for how to do this step.

4.2.2 Step Two – Preliminary Priority Rating

Using the email template 'Preliminary Priority Rating' (PPR), propose a PPR of 'LOW', 'MEDIUM' or 'HIGH' and outline your reasons. This will need to be cleared by the Senior FOI officer before proceeding to the next step. FOI Officers will review the LEX for any legal advice files related to the FOI to inform the priority rating. Consult the PLC if you are unsure.

Once a PPR is established, this will need to be provided to the relevant HoD as part of step three below. Only once the priority rating is endorsed by the Head of Division is the PPR approved.

Tip! Once the PPR is approved, you will need to update the 'Significant' category in the Details section of the LEX file.

4.2.3 Step Three – Notifying the Head of Division

The Head of Division for the Division most likely to hold the documents must be notified of the FOI request and the PPR. In some cases there may not be one division most likely to hold the documents. In these cases, the Head of Division best placed to speak to the harm which may flow from disclosing the requested documents should be notified.

To identify the relevant Head of Division, use the department's [organisational structure](#). Consult the FOI Manager if you are unsure.

The FOI Officer is to use the email template in the FOI Inbox for notifying the Head of Division:

- a. In the FOI inbox, go to the folder 'Email templates' and find the template titled 'New FOI – notify Head of Division'.
- b. If the Head of Division responds and recommends the request better sits with another team or division, send an email using the template to the Head of Division of that division.

If the Decision Maker is known

If you know who the Decision Maker for the matter will be, perhaps due to similar previous requests, you should highlight in the email to the Head of Division who you consider the appropriate Decision Maker is.

4.2.4 Step Four - Nominate a Decision Maker

The Head of Division is responsible for nominating the Decision Maker. Decision Makers will usually be SES Band 1 (General Manager). This is to ensure if the applicant requests an internal review of an FOI decision, the Head of Division is available as the relevant SES Band 2 to make the internal review decision.

If the Head of Division has not responded within one (1) day of being notified of the FOI request, the FOI Officer must follow up to prevent any unnecessary delays. Follow up should be with the relevant Executive Assistant in the first instance.

4.2.5 Step Five - Notify Decision Maker of next steps

The FOI Officer is then to use the email template in the FOI inbox to notify the Decision Maker of the scope of the FOI request and ask the Decision Maker to nominate an Action Officer (usually EL1 or EL2) to assist in conducting searches.

Where the FOI team is aware of potential sensitivities related to an FOI request, the FOI Officer should bring these circumstances to the Decision Maker's attention in this initial email. However, the Decision Maker is best placed to understand and manage those sensitivities.

The FOI Officer is to use the email template in the FOI Inbox for notifying the Decision Maker:

- b. In the FOI inbox, go to the folder 'Email templates' and find the templated titled 'New FOI Request – Search Minute'.
- c. If the scope of the request covers a couple of branches or line areas, the Head of Division should be copied in the email.

Search Minutes

The FOI Officer should prepare and attach a search minute for the FOI request to this email:

- a. Create a new search minute for this matter using the DocHub template '[FOI Template – Search minute](#)'.
 - o Ensure that the terms of the minute cover documents which were created on or prior to the date that the request was received.

- It may also be helpful to provide a copy of the Line Area Checklist (Appendix item B) if it is a new Action Officer or an area in the Department that has not processed an FOI request before.
- Allow seven (7) days for the return of the search minute.
- The FOI Officer may be in contact with the line area throughout this time.

Note the email template suggests the Action Officer meet with the FOI team within a few days to discuss the search minute and confirm next steps.

4.2.6 Step Six - Nominate Action Officer

The Decision Maker is responsible for nominating an Action Officer to assist with processing the FOI request from the line area's side. Action Officers will usually be EL1 or EL2 level. The completed search minute must be signed by an official at the EL2 level.

If the Decision Maker has not responded within one (1) day of being notified of the FOI request, the FOI Officer must follow up to prevent any unnecessary delays.

4.2.7 Step Seven – Conduct searches

The Action Officer should receive a copy of the scope of the FOI request and the search minute from the Decision Maker. The email template sent to the Decision Maker suggests Action Officers meet with the FOI team to discuss the search minute and confirm the Action Officer knows next steps.

If the Action Officer does not reach out within one (1) business day of being nominated by the Decision Maker, the FOI Officer must contact the Action Officer to ensure that they have a copy of the Search Minute to complete and are aware of the next steps.

The FOI Officer and, if appropriate, a Senior FOI Officer, should offer to meet with the Action Officer to discuss how to conduct reasonable searches to identify documents being within scope of the request.

In some cases, this may require the Action Officer, together with the Decision Maker, to determine how to interpret the scope of the request. Refer to [Part 5](#) for guidance on interpreting the scope of requests.

Note! Even if the Action Officer knows searches will return too many documents to reasonably review, a preliminary search should be conducted.

This allows the department to assess the likely volume of documents before deciding if a request is unreasonable.

4.2.8 Step 7a – Consider whether request requires refinement

In some cases, the scope of a request may be unclear, or too broad to be practicable to process. This is typically the case where a request does not include sufficient details to narrow down the particulars of a request, or where the subject matter is sufficiently large that too many documents would be responsive.

For example, a request may seek access to:

- All departmental emails containing a particular phrase.
 - a. In this case, without knowing who the emails should be between, searching all email inboxes of current (and potentially many former) employees would be unduly burdensome and impracticable.
- All briefings, papers and reports prepared in relation to a particular topic.
 - a. Depending on the topic, this may capture documents prepared over several decades.

If the scope of the request is too large to process, it may be necessary to issue a notice of intention to refuse under s 24AB of the FOI Act. See [Part 5](#) for more detail on assessing whether the scope of a request needs refinement and how to issue a s 24AB notice.

4.2.9 Step Eight – Acknowledge receipt of request

The department must acknowledge all FOI requests within 14 days of receipt (s 15(5)) of the FOI Act).

Generally, this will fall as step eight in the process, but if there are delays in the preceding steps (typically in conducting searches), the FOI Officer may need to acknowledge receipt before the preceding steps have been completed.

The FOI Officer is to use the email template in the FOI Inbox for acknowledging receipt:

- a. In the FOI inbox, go to the folder 'Email templates' and find the templated titled 'Acknowledgement – new FOI request'.
- b. The email 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 departmental and ministerial staff below SES level will be treated as out of scope of the request unless the applicant advises that they wish to have them included;

- invite the applicant to agree to remove duplicates and copies of documents already in the applicant's possession from the scope of the request to reduce the scope of the request; and
- 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.

Note! Ideally, if preliminary searches reveal the scope of the request is too large, the FOI Officer will acknowledge receipt at the same time as notifying the applicant that the request will need to be refined. This may involve issuing a s 24AB notice of intent to refuse or it may be done informally (speak to your Senior FOI Officer to confirm an appropriate approach).

4.2.10 Step Nine – Signed search minute and documents to FOI Officer

The Action Officer is required to sign the completed search minute (or have an EL2 sign if they are below EL2 level) and return this and any documents identified as being within scope of the request to the FOI Officer within seven (7) days.

Documents should be provided in PDF form and saved with numbered titles consistent with the document's listing in the search minute. This ensures consistency in reviewing the documents and the FOI Officer can review the sensitivities identified in each document by the Action Officer.

4.2.11 Step Ten – Review documents and consider charges

The FOI Officer then reviews the documents to:

- confirm they are within scope of the request;
- review any harm identified by the Action Officer in the event the documents are disclosed;
- confirm any consultations required; and
- consider whether it is appropriate to recommend charges be imposed (refer to step 4.2.12 for sampling).

The FOI Officer may need to discuss with the Action Officer if there are any concerns with or confusion around proposed consultations or the harms identified. This includes ensuring the Action Officer has carefully reviewed and considered any third parties or other Commonwealth agencies with an interest in the documents which should be consulted. FOI Officer should then include their own comments as to the potential harms which may flow from releasing the documents once they have reviewed their own.

4.2.12 Step Eleven – Charges

When a line area returns a completed document search minute, the FOI Officer is to input the figures provided into the [Charges calculator](#) to determine the charges.

Using the Email template 'Notify DM of charges' advise Decision Maker of charges amount and advise if the FOI team (as authorised officers) have decided to issue charges or not.

This advice will be based on:

- An estimate of how much work is involved in redacting documents and preparing the decision;
- An estimate of how much work is involved in consulting any third parties;
- Whether the charge resulting from the above factors is over \$100.00; and/or
- Any other relevant factors particular to the FOI request.

There is an expectation when using the AGS charges calculator that the FOI officer undertake sampling to ensure that the data input provides an accurate estimate. A representative sample of 10-20% of documents would be reasonable. Where the request involves a large number of documents, a smaller sample size may be appropriate. An FOI officer may also examine all documents to ensure the data input is an accurate estimate.

If the Decision Maker instructs they would like to issue charges:

- Prepare a [Notice of charges](#) using the DocHub template.
- If third party consultation is not needed, remove the paragraph about consultation with third parties.
- Once reviewed by the Senior FOI Officer, the FOI Office signs the Notice, PDF's the signed document, and then send to the applicant.
- In LEX under *file notes*:
 - Add file note 'FOI Clock – Stop', select the date charges were issued, add brief description as to how charges were estimated (incl if a full assessment or representative sample was undertaken of the documents)
- In LEX under *main details*:
 - Update status notes to include date the charges were issued, date payment is due, how much charges were, and how many days remaining. Where applicable also note if there are 30 days consultation remaining.
 - update it to reflect the charge and date the payment is due.

- In LEX under *invoices*:
 - Add an invoice to the system under “FOI Charges – Charges Issued” taking care that a charge issued but not yet paid needs to be recorded as a negative number.
- Ensure that a copy of the final charges calculator is saved into content manager by emailing the document to the FOI inbox and saving it into the relevant outlook folder.

Refer to Part 6 for more information and guidance on imposing Charges.

4.2.13 Step Twelve – Consultations

The FOI Officer will confirm any necessary consultations as part of [Step Eleven](#).

If third party consultations are required the FOI Officer will need to:

- notify the Applicant using the email template;
- extend the timeframe in LEX; and
- conduct third party consultations over the relevant documents, using the email template.

If courtesy consultations are required, the FOI Officer will need to use the email template to request courtesy consultation from the relevant agencies or Minister’s Offices.

Refer to Part 7 for more information on Consultations.

4.2.14 Step Thirteen – Incorporate consultations into review of documents

After receiving consultation comments, the FOI Officer is to review and incorporate into Part 2 of the search minute. FOI Officers should make sure consultation comments are clearly reflected in the document. The as-received consultation responses also need to be attached to any recommendations to the decision maker so they can engage directly with the consultations.

4.2.15 Step Fourteen – Prepare recommendations and draft notice of decision

Once the documents and consultations are provided, the FOI Officer is responsible for preparing the recommendations and draft notice of decision to be sent to the Decision Maker.

Refer to [Part 8](#) for guidance on how to prepare documents for release in Adobe Acrobat Pro.

Recommendations

The FOI Officer is to draft recommendations for the Decision Maker using the email template: Recommendations (Primary decision)

The recommendations should:

- include any relevant background such as consultations undertaken;
- clearly and concisely identify any redactions recommended and why; and
 - if any of the proposed redactions are subject to the public interest test, this test and the reasons for and against disclosure should be spelled out.
- identify key timeframes such as the date by which a decision is due to the applicant *and* the date by which the FOI team will need notice in order to amend the notice of decision.

Draft notice of decision

In addition to the recommendations drafted in the email, the FOI Officer is to fill out the [Notice of Decision](#) DocHub template. This will include:

- background information about the request and action undertaken to date;
- the draft decision;
- a copy of the documents with redactions marked;
- a copy of the documents with the redactions applied;
- any consultation comments provided (where applicable);
- schedule of documents (where appropriate); and
- a final assessment of charges (where appropriate).

The recommendations and the draft notice of decision are sent to the Decision Maker together, to facilitate a more streamlined decision-making process. The recommendations should be clear that if the Decision Maker wishes to take a different approach, the FOI Officer will amend the draft notice of decision accordingly.

FOI Officers must remember to attach both the search minute's record of any sensitivities identified (including by consultation) and any responses to consultations (including where those comments were subsequently refined) so the Decision Maker can engage with those views directly.

4.2.16 Step Fifteen – Make decision

The Decision Maker is then responsible for reviewing the recommendations and draft notice of decision within the timeframe provided.

If the matter is not straight forward or is particularly sensitive, the Decision Maker may reach out to discuss with the FOI Officer.

If the Decision Maker has not responded within the timeframe, the FOI Officer must follow up to ensure the statutory timeframe is met.

Once returned, the FOI Officer should save the signed decision in PDF form and delete the extra final page.

4.2.17 Step Sixteen – Notify Minister's Office of signed decision

The department's protocol is to notify the relevant Minister's Office, Media Team and senior executives s 47E(d)

The FOI Officer and point of contact will provide notice as appropriate for the status and complexity of the matter.

The FOI Officer is to use the Outlook template 'notify MO of decision'. The email will include the signed decision and documents for release (with applied redactions).

In the event the documents subject to release are too large to be directly emailed to the Minister's office:

1. The FOI officer will upload the documents to Sigbox and share the SigBox file with the s 47E(d) [@industry.gov.au](mailto:industry.gov.au) account. Further instructions on uploading and sharing documents via SigBox is available on iCentral.
2. The Executive ICT Team will download the documents and load them to the respective Minister's SharePoint site and email the FOI Team (FOI@industry.gov.au) once this is complete.
3. The FOI Team to email the respective Minister's Office as per your normal process and let them know the associated documentation is available on their SharePoint site.
4. The Executive ICT Team will continue to provide support to the Minister's Office if they have any issues in accessing the documents.

s 47E(d)

For example: matters about the operation of the Minister's Office or about a grievance or claim that the minister may need to be aware of.

Minister's Offices do not need to be notified of any requests from individuals for their own personal information (including information relating to any employment or personnel matters).

Note: remember to save a copy of the email in the relevant PDMS item to ensure email communications with the Minister's Office are saved appropriately (refer to Part 14.3 below).

4.2.18 Step Seventeen – Release decision to applicant

Use the Outlook template 'Notice of Decision' to send the decision to the applicant.

- Decisions and documents which cannot be emailed to the applicant (for example, where an email address has not been provided) are to be sent via Express Post through the Canberra staff.

Note: documents are not to be released to the applicant:

- if the applicant has not paid any outstanding FOI charges.
- if a third party, as a result of consultation, has requested an Internal Review of the decision.

If one of these circumstances exists, fill out the Notice of Decision and email template accordingly, and only attach the notice of decision.

4.2.19 Step Eighteen – Send documents to disclosure log

The FOI Officer then sends the documents as released for publication on the disclosure log by the digital team (^{s 47E(d)} @industry.gov.au) using the email template: Disclosure Log.

The FOI Officer is also to add Disclosure Log reference (D/L ref) to the LEX file in the status notes.

Alternatively, if the notice of decision states documents are not to be published on the disclosure log, the FOI Officer should:

- a. In LEX under File Notes, select 'Primary decision – not published'
- b. In LEX under status notes, note 'No disclosure log required'.

5. Interpreting the scope of a request

1.2. What is a 'document'

The right of access under the FOI Act is to existing documents, rather than to information. The FOI Act does not require an agency or minister to create a new document in response to a request for access, except in limited circumstances where the applicant seeks access in a different format or where the information is stored in an agency computer system rather than in discrete form.

The FOI Act defines a 'document' broadly and the list in s 4(1) is not exhaustive. Documents may include sound recordings, films, video footage, information stored on computers, disks, portable hard-drives and devices, mobile phones and mobile computing devices.

In general, a good rule of thumb to consider is if the department has a 'file' in any format, then it is likely to fall within the meaning of a 'document' under the FOI Act.

5.1.1 Documents in existence

The right of access applies to documents that exist at the time the FOI request was made. An applicant cannot insist that their request cover documents created after the request is received.

However, the department may consider whether to include documents that were created after the request was received. This could be more administratively efficient because the applicant might otherwise submit a new request for the later documents.

5.1.2 Creating a document

As indicated above, the department and the Ministers' Offices are generally not required to create a document if documents responsive to an FOI request does not exist.

However, section 17 of the FOI Act does provide that the department may create a written document in discrete form that is responsive to an FOI request if it can do so by:

- the use of a computer or other equipment that is ordinarily available for retrieving or collating stored information; or
- the making of a transcript from a sound recording held in the department.

The department is not required to create a document if doing so would amount to an unreasonable diversion of resources.

There is some uncertainty about the meaning of 'use of a computer' to create a document. Caselaw suggests it would be appropriate to interpret this as meaning where a system exists

to generate discrete written documents, rather than where a computer is used but the work is substantially manual.

Nevertheless, the department's approach is to assess the degree of work required and create a document unless doing so would unreasonably divert the department's resources.

5.1.3 Documents of an agency

A document of an agency includes those documents the department has actual possession of, and documents over which the department has constructive possession. This means that where the document is held by another entity (for example, a contracting party) but the department has the right and power to deal with the document, the document is taken to be in the department's possession when processing FOI requests.

Note! Since 2010 Commonwealth contracts must include a clause allowing agencies to obtain any document for which an FOI request is received.

5.1.4 Documents open to public access

Documents open to public access are not subject to the FOI Act and must be exempted by the Decision Maker on this basis. However, it may be appropriate to refer to the documents in the Notice of Decision and direct the applicant on how to obtain access via the appropriate channels.

5.2 Unclear scope of request

When the scope of the request is not clear, the department is required to take reasonable steps to assist the applicant to make a valid FOI request. This is usually done by:

- asking the Action Officer as the subject matter expert about whether the request needs clarification from the applicant; and/or
- contacting the applicant to clarify the scope.

If, after these actions are taken, the request does not provide sufficient information to enable the department to identify the documents, the FOI Officer will need to initiate the section 24AB process (see practical refusal below at [Part 5.4](#)).

5.3 Practical refusal – s 24AB process

Where a practical refusal reason exists, the department must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists (s 24B(3)). What is reasonable will vary depending on the circumstances, but at a minimum

the department aims to provide the applicant with suggestions for refining the scope of the request.

5.3.1 Determining if a practical refusal reason exists

A practical refusal reason exists under section 24AA of the FOI Act in relation to an FOI request if:

- the work involved in processing the request would substantially and unreasonably divert the resources of the department; and/or
- the documents cannot be identified from the request.

To determine if such a reason exists, input the information provided in the Search Minute into the [Charges calculator](#). Whether a request is too large to process will vary from case-to-case, however if the number of hours shown on the charges calculator is more than 40 hours, it is an indication that a practical refusal reason may exist.

However, a practical refusal reason will be identified in conjunction with the Action Officer once preliminary searches are conducted, as this will identify most cases of practical refusal due to the large volume of results which may be returned.

5.3.2 Combining requests

In deciding whether a practical refusal reason exists, two or more requests may be treated as a single request if:

- the requests relate to the same document or documents (s24(2)(a)); or
- the subject matter is substantially the same for the requests (s24(2)(b)).

While this most commonly arises where multiple requests are made by a single applicant, requests from different applicants may be combined under section 24 of the FOI Act.

Multiple requests can only be combined if there is a clear connection between the subject matter of the requested documents.

If the department receives multiple requests where there is a clear connection between the subject matter of the requested documents, FOI Officers should consider whether it may be appropriate to combine the requests and treat them as a single request. This is a decision to be made by the Decision Maker on the basis of recommendations by the FOI team.

5.3.3 Sample of documents

To support a practical refusal reason, it is recommended the department examines a sample of the documents to assess the complexity of the material against whether the work involved in processing the request would constitute a substantial and unreasonable diversion of

resources from the agency's other operations. A representative sample of between 10 to 15% of the documents within the scope of the request has been considered by the OAIC to be an appropriate sample size for the purposes of calculating processing time when deciding whether a practical refusal reason exists.

The Action Officer should assess the sample of the documents, looking at each document as if they were making a decision on access, including indicating the number of documents that could be released in an edited form. The assessment of the sample should provide an indication of the complexity of the potential decision, that is, the number of exemptions required, the topic and content of the documents, and the number of consultations required and effort required to contact third parties based on available contact details.

5.3.4 Notifying the applicant

If a practical refusal reason exists, the FOI Officer will need to issue a *notice of intention to refuse* the request under s24AB of the FOI Act.

- Draft a notice of intention to refuse using the DocHub template '[FOI template – 24AB – Notice of intention to refuse](#)'.
- Liaise with the Action Officer to identify suggestions to refine the scope of the request to a manageable size and include these suggestions in the notice.
 - Suggestions to narrow the scope could include:
 - Reducing the timeframe.
 - Including only final versions of documents (i.e. excluding drafts).
 - Including only emails from particular levels of APS staff (e.g. EL or SES levels).
 - Specifying the part(s) of the department to be searched (most useful where a request may cover many different areas in the department).
 - Further specifying the exact documents sought.
- Send a draft notice to the Senior FOI Officer for consideration and signature.
- Once signed, send the notice to the applicant.
- After Notice has been issued to the applicant, advise the Decision Maker using the Outlook template "notify DM 24AB being sent off".

5.3.5 Consultation with the applicant

Before the FOI Officer issues a notice of intention to refuse the request under s24AB of the FOI Act, it may be appropriate to discuss the need to refine a request's scope with the applicant. This will need to be assessed on a case-by-case basis.

Generally, discussions with the applicant will be appropriate where the applicant is not anonymous and has previously acknowledged communications from the department on their FOI request.

Caution! FOI Officers should always speak to their 2C and/or the FOI Manager before making phone contact with an applicant.

Consultation period for notice of intent to refuse

Once the notice is sent, a **14 day** consultation period begins during which the applicant can:

- contact the department in writing to revise the request;
- withdraw the request; or
- indicate that they do not wish to revise the request.

If the applicant does not contact the department within the consultation period, the request is deemed to be withdrawn. If this occurs, the FOI Officer must write to the applicant notifying them that their request has been deemed withdrawn and close the LEX file.

5.3.6 Revision of scope outside consultation period

If the applicant wishes to revise the scope of their request at a time outside of the consultation period, consider the resulting work requirements.

- If the revision will jeopardise meeting the statutory timeframes, advise the applicant they will need to agree an extension (if applicable) or otherwise withdraw the current request and submit a new request if they wish to revise the scope of the request.

6 Charges

6.1 Charging principles

There is no application fee for an FOI request. The department may impose a charge in respect of a request for access to a document or for providing access to a document, under s 29 of the FOI Act.

The charge must be assessed in accordance with the [Freedom of information \(Charges\) Regulations 2019](#) (Charges Regulations). Charges are discretionary and should always be reasonable in the circumstances. If an applicant applies for Information Commissioner review of a decision to impose a charge, the department will bear the onus and the cost of establishing that the charges were justified.

Consistent with FOI Act and OAIC guidance, the department takes account of the 'lowest reasonable cost' when deciding whether to impose a charge, including whether to impose a charge that is lower than the applicable charge. The lowest reasonable cost should be interpreted broadly, and as a general rule where the cost of calculating and collecting a charge might exceed the cost to the agency of processing the request, it may generally be more appropriate not to impose a charge. The amount of any charge imposed should be:

- determined bearing the objects of the FOI Act in mind;
- reasonable, taking into account all relevant factors; and
- proportionate to the cost of making a decision and providing access, as well as any general public interest supporting release of the requested documents.

The objects of the FOI Act provide the basis for the following principles relevant to charges:

- a charge must not be used to unnecessarily delay access or to discourage an applicant from exercising the right of access conferred by the FOI Act;
- a charge should fairly reflect the work involved in providing access to documents;
- charges are discretionary and should be justified on a case-by-case basis;
- agencies should encourage administrative access at no charge, where appropriate;
- agencies should draw an applicant's attention to opportunities to obtain free access to a document or information outside the FOI Act (s 3A(2)(b)); and
- a decision to impose a charge should be transparent.

6.2 Department's approach to imposing charges

This department handles an unusually high volume of complex and large FOI requests, which require a substantial amount of time to process. For this reason, the FOI team estimates the total charges an applicant is likely to be liable for once the line area completes searches and provides documents identified as being within scope.

Charges cannot be estimated earlier than this as the decision to impose charges must be justifiable as informed by the volume of the documents responsive to the request. Imposing estimated charges at this stage in the process balances the expenditure of resources processing requests which may not proceed with the need to ensure charges are appropriately informed by search results and consideration of the sensitivities within the documents.

Once charges are assessed, the FOI team recommends whether to impose charges to the Decision Maker. This recommendation is based on:

- an estimate of how much work is involved in redacting documents and preparing the decision;
- an estimate of how much work is involved in consulting any third parties;
- whether the resulting charges are over \$100.00;
- any other relevant factors particular to the FOI request, including but not limited to;
 - applicants repetitively seeking the same or similar material may be a factor in favour of imposing charges for the work involved;
 - if the information is already in the public domain it may be reasonable to impose charges if the applicant insists that the department go through a formal decision making process;
 - if the applicant has agreed to reduce the scope substantially, then it may be reasonable to reduce or waive the applicable charges;
 - any public interest factors in favour of the applicant's access to the documents.
- when applicants request their own personal information there will be no charge; and
- all other requests receive the first five hours of decision-making time free of charge.

The OAIC Guidelines [provide more detail](#) about activities that should be counted when preparing charges.

6.3 Notice of preliminary estimate of charge

When a line area returns a completed document search minute, input the figures provided into the [Charges calculator](#) to determine the charges.

When using a charges calculator to estimate a charge, in order to obtain an accurate estimate of charges OAIC has advised that agencies should examine a representative sample of the relevant documents and adjust the parameters of the charges calculator accordingly (Guidelines, paragraph 4.74). A representative sample means the sample selected should accurately represent the full scope of documents (i.e you shouldn't necessarily select the first 5 documents identified in the Search Minute).

Sampling is not required where the FOI officer examines all relevant documents in order to calculate a preliminary estimate of charge using the charges calculator.

Using the Email template ('notify DM of charges') advise Decision Maker of charges amount and recommend if charges should be issued or not. If the Decision Maker instructs that they would like to issue charges:

- Prepare a [Notice of charges](#) using the DocHub template.
- If third party consultation is not needed, remove the paragraph about consultation with third parties.
- Sign the Notice and send it to the applicant.
- In LEX under *file notes*:
 - a. Add file note 'FOI Clock – Stop', select the date charges were issued, add brief description as to how charges were estimated (including if a full assessment or representative sample was undertaken of the documents)
- In LEX under *main details*:
 - b. Update status notes to include when charges were issued, date the payment is due, how much charges were, and how many days remaining. Where applicable also note if there are 30 days consultation remaining.
 - c. Update Current Status and Next Steps to reflect the charge and date the payment is due.
- In LEX under *Invoices*:
 - d. Under Add invoice:
 - i. Add invoice date

- ii. Submitted for approval – Leave blank
- iii. Invoice code – Leave blank
- iv. Notes – Leave blank
- v. Group-Division-Branch (this should be pre-populated)
- vi. Outsourced – **change to blank**
- vii. Select 'save'
- viii. Cost type – 'FOI Charges – Charges Issued'
- ix. Hours – Leave blank
- x. Rate – Leave blank
- xi. Amount – Enter \$ amount
- xii. Select 'save'

If applicant does not respond to the notice within 30 days, the request is deemed withdrawn but will become active again if and when the charges are paid, or a decision is made to waive the charges.

The FOI clock will stop when the notice is issued to the applicant. It will begin again when payment is received by the department, or a decision on reduction or non-position of the charge is made.

6.4 Payment methods

6.4.1 Cheque payment

- Complete the CPM form and organise for it to be signed by General Counsel;
- Send cheque and signed CPM form via internal mail to the Collector of Public Monies, this must be done on the day the cheque is received; and
- Request a copy of the receipt from the CPM, send receipt to applicant by email.

6.4.2 Credit card payment

- Applicants are advised in the notice of charges to send credit card payment forms directly to Collector of Public Monies (CPM) at CPM@industry.gov.au for processing.
 - Sometimes applicants will send this form to the FOI inbox. If this occurs, the responsible FOI Officer should forward to the CPM for processing.

Once the CPM process a credit card payment, they will issue a receipt to the department. At this point, the department accepts that payment is made and Clock is turned back on and is backdated to the date applicant provided credit card payment details to the department.

In instances where the credit card is declined or invalid, clock remains stopped for the period CPM/FOI team consults with applicant for the correct payment details. Following receipt of correct details once the CPM process the payment and issue a receipt to the department, clock is restarted at this point but is backdated to the date applicant provided the correct payment details.

6.4.3 Bank transfer payment

- Once the CPM allocate an electronic funds transfer payment to the relevant LEX file (consistent with the notice of charges), they will issue the department a receipt. At this point in time, the department acknowledges that payment is made and turns the 'clock' back on, again backdated to the date applicant provided the funds transfer details.

6.4.4 Update LEX with payment received

- Update status notes with date payment received and amount (note if it's payment in full or the deposit).
- Under *Invoices*: enter amount received as a positive amount. For example: \$50.00.

7. Consultations

It is not uncommon for documents held by the department to contain information relevant to other parties. Where this information is within the scope of a request, the department may be required to consult with those parties.

FOI Officers should ensure they record responses to consultations in the search minute so there is a complete record of all comments received.

Note! All consultation responses must be provided to the decision maker. This includes comments subsequently amended following discussion with the FOI team. This is an important part of ensuring decisions are informed by all relevant considerations.

Personal information

When conducting consultations (courtesy or formal) it is important not to disclose the applicant's personal information. This goes beyond the applicant's name and includes any information that may identify them (this may include the content of the scope of the request). If the FOI Officer is asked to provide the applicant's name, they must first obtain the applicant's express permission to the disclosure.

7.1 Third party consultations

Third party consultation is required where the department is considering releasing documents that:

- are likely to affect Commonwealth/State relations;
- relate to the business, commercial or financial affairs of a person or organisation;
or
- contain personal information within the meaning of the FOI Act.

Consultation is not required, but may be undertaken, where the department does not release the personal or business information, or information that might affect Commonwealth-State relations. Undertaking consultation even though the department does not intend to release the documents can confirm whether the documents are suitable for release and/or provide reasons why the documents should not be released.

Remember! Be careful to remove the applicant's personal information unless you have their permission to disclose it.

7.1.1 Who are third parties?

Third parties are entities separate from the Commonwealth. FOI Officers can refer to the [Department of Finance Flipchart](#) for a list of Commonwealth entities and companies.

However, generally the following types of entities should be considered third parties as they are legally separate from the Commonwealth:

- Corporate Commonwealth Entities; and
- Commonwealth Companies.

However, Non-corporate Commonwealth Entities and Minister's Offices should not be treated as third parties. Refer to [Courtesy Consultations](#) in Part 7.2 below for more information.

7.1.2 Process for third party consultations

To avoid third parties having to do unnecessary work in the event that the applicant does not pay the deposit, FOI Officers will usually send consultation packages after the deposit is paid.

After reviewing the documents and identifying relevant third parties, for each third party:

- a. Liaise with the line area to confirm the appropriate contact for consultation – they will generally have contacts with the third parties involved. If not, and contact details aren't known, reach out to the third party to obtain the details of an appropriate contact person.
- b. Prepare the consultation package:
 - Fill out the [Third party consultation](#) template on DocHub
 - Mark up the documents for consultation. Specifically, ensure that none of the applicant's information or other sensitive information is included in the title or documents.
 - Documents for consultation must be numbered. Where there is a substantial volume of documents, prepare a schedule of the documents allowing space for third party comments to be sent with the documents.
 - Prepare the 'Consultation' Outlook template
- c. Send the consultation to the line area for clearance.
- d. Once cleared, send to the third party.

Note: If a third-party objects to the release of documents but their reasons are not clear, seek clarification to ensure it is a valid objection and an exemption applies.

Note: When sending the decision to the applicant, a letter explaining the third-party rights of review is required to be sent to the third party.

7.2 Courtesy consultations with other departments

Consultations with other Federal government departments, referred to as 'courtesy consultations', follow a similar process to those with third parties. However, less information is required – for example, it is generally not necessary to prepare a third-party consultation letter or acknowledge receipt of their response, though you may wish to do so.

Common departments consulted with include:

Table 3 – FOI Contacts

Department	Email address
Australian Bureau of Statistics	freedomofinformation@abs.gov.au
Climate Change, Energy, the Environment and Water	foi@dcceew.gov.au
Australian Taxation Office	FOI@ato.gov.au
Agriculture, Water and the Environment	FOI@awe.gov.au
Defence	FOI@defence.gov.au
Education, Skills and Employment	FOI@dese.gov.au
Finance	FOI@finance.gov.au
Foreign Affairs and Trade	FOI@dfat.gov.au
Health	FOI@health.gov.au
Home Affairs	FOI@homeaffairs.gov.au
Infrastructure, Transport, Regional Development and Communications	FOI@infrastructure.gov.au
IP Australia	FOIRequests@ipaustalia.gov.au

A separate process is needed for consultations with PM&C – see below.

7.3 Courtesy consultations with the Minister's Offices

In some cases, it may be appropriate to conduct a courtesy consultation with the Ministers' Offices. This will usually be the case where the documents subject to the request are Ministerial briefing packs, the documents include correspondence with the Minister's Office, and any other instance where the Ministers' Offices could identify harm which may flow from the disclosure of the information.

Consultations with the Ministers' Offices are courtesy consultations and no extension of time is granted to allow for them. This means the Ministers' Offices comments must be provided within the same timeframe as other courtesy consultations.

In the event the documents that are subject to courtesy consultation with the Ministers' Offices are too large to be able to be sent by email, please refer to section 4.2.17 for guidance on file transfer.

7.3.1 Personal Information and the Minister's Office

Disclosure of information about the identity of FOI applicants that is required to fulfil the Secretary's responsibility to advise the Minister is impliedly authorised under section 57 of the *Public Service Act 1999* and is not inconsistent with the Australian Privacy Principles.

However, for requests of a personal nature where there is not a media or other need for the Minister to be briefed about the request, there is a greater risk that disclosure of the FOI applicant's personal information may breach APP 6 or 10.

Note! Consultations with the Ministers Offices **must** be done through the Senior Advisers.

You should copy in the DLO, but ensure all communications are sent to the Senior Advisor.

7.4 Consultations with the Department of the Prime Minister and Cabinet (PM&C)

Note! PM&C requires at least seven (7) working days to provide its comments in relation to any consultation. As such, once documents have been identified as containing Cabinet related material, consult with PM&C as early as possible.

If an FOI request covers documents in relation to Cabinet and Cabinet-related material, the department is required to consult with PM&C to determine if a section 34 exemption may be used.

To consult with PM&C:

- a. Prepare the [consultation schedule for consulting with PM&C](#). this will require the FOI Officer to provide:
 - whether the document was considered by Cabinet or a Cabinet committee,
 - the dates it was considered by Cabinet or a Cabinet committee,
 - relevant submission numbers,
 - any authority to take a matter to Cabinet, and
 - any other relevant identifying information.
- b. Prepare the Outlook template 'PM&C consult for s34'
- c. Send the consultation to the Action Officer for clearance
- d. Send the consultation to PM&C at foi@pmc.gov.au, ensuring the email is classified with the security marking of PROTECTED: Cabinet in Confidence.

Note that PM&C have issued Commonwealth agencies with [guidance](#) in relation to access requests for National Cabinet documents. Refer to this guidance before consulting with PM&C regarding access requests for documents prepared for and/or considered by National Cabinet.

Note! The guidance notes only apply to National Cabinet documents, not documents sent to Cabinet which may be exempt under s 34 of the FOI Act.

7.5 Consultation with the Attorney-General's Department

Requests for access to documents relating to cyber incidents or possible data breaches must be handled in consultation with the Attorney-General's Department.

Consultation emails should be sent to FOI@ag.gov.au.

7.6 Consultation with Department of Foreign Affairs and Trade (DFAT)

The department handles a number of requests for access to information the release of which may damage the Commonwealth's security, defence or international relations, or which would otherwise divulge information or matter communicated in confidence by or on behalf of a foreign government (section 33 of the FOI Act).

While consultation with DFAT is not required by the FOI Act, DFAT has made clear it should be consulted on any documents relevant to DFAT's functions or operations including documents which originate with DFAT or which contain a DFAT equity.

Note! DFAT equity refers to any person, function or role administered by DFAT. For example, a Head of Mission or Deputy Head of Mission (HoM or DHoM respectively) refer to roles held by DFAT officers and release of relevant information should be consulted on.

7.7 Consultations with other Commonwealth agencies

While other Commonwealth agencies are not required to be consulted under specific sections of the FOI Act, the department regularly handles documents containing information relevant to other Commonwealth agencies' functions and operations. Where this is the case, the department should consult with those agencies to obtain their views as to the sensitivities associated with releasing the information.

Consultations with other Commonwealth agencies do not attract an extension of time and should be described as courtesy consultations.

7.8 Receiving consultations from other departments

The department also receives consultations from other departments.

- a. Set the consultation up as normal for an FOI request in LEX, Content Manager and Outlook, noting:
 - In LEX, its title should be 'FOI Consultation – (Department) – IEFXX/XXXX' and its category should be 'FOI Consultation'. The clock does not need to be started.
 - In Content Manager, its title should be 'Freedom of Information (FOI) Consultation – (Department) – LEX XXXXX'
 - In Outlook, the folder should rest in the folder 'Consultations with other agencies'
- b. Prepare the PPR as usual, and clear through EL1 FOI Officer r.
- c. Provide the Action Officer's comments to the consulting agency.

8. Exemptions

The Information Commissioner's [FOI Guidelines](#) (Parts 5 and 6) provides substantial guidance on exemptions under the FOI Act. Below this Procedure Manual sets out high level guidance on the exemptions most commonly applied in this department. However, FOI Officers should always have regard to the FOI Act and the FOI Guidelines when considering appropriate exemptions.

Exemptions under Part IV of the FOI Act fall into two categories:

- Absolute Exemptions: those which are not subject to a separate public interest test; and
- Conditional Exemptions: those subject to a public interest test under s 11A(5) which is weighted in favour of disclosure.

Remember! The department has a pro-transparency policy. Just because an exemption may be available, consider whether it may be appropriate to release the information regardless.

8.1 Absolute exemptions (Division 2)

If information in documents subject to an FOI request fulfil the criteria for these exemptions, the department may elect to redact the information:

- documents affecting national security, defence or international relations (s 33)
- Cabinet documents (s 34)
- documents affecting enforcement of law and protection of public safety (s 37)
- documents to which secrecy provisions of enactments apply (s 38)
- documents subject to legal professional privilege (s 42)
- documents containing material obtained in confidence (s 45)
- Parliamentary Budget Office documents (s 45A)
- documents disclosure of which would be contempt of Parliament or in contempt of court (s 46)
- documents disclosing trade secrets or commercially valuable information (s 47)
- electoral rolls and related documents (s 47A).

8.2 Conditional exemptions (Division 3)

If information in documents subject to an FOI request fulfil the criteria of the exemptions in sections 47B to 47J, the department will then need to apply the public interest test, in order to determine if the information may be exempt. This means there is a two-step process.

8.2.1 Conditional exemption

Step One is to identify whether the harm that would flow from disclosing information in a document meets the standard for the following conditional exemptions:

- Commonwealth-State relations (s 47B)
- deliberative processes (s 47C)
- financial or property interests of the Commonwealth (s 47D)
- certain operations of agencies (s 47E)
- personal privacy (s 47F)
- business (other than documents to which s 47 applies) (s 47G)
- research (s 47H)
- the economy (s 47J).

8.2.2 Public interest test

If Step One above is satisfied, the next step is to consider the public interest test. The public interest test is weighted in *favour of giving access to documents*. This means that even where a conditional exemption may be available, the Decision Maker must be satisfied it is not in the public interest to disclose the information.

There is a single public interest test to apply to each of the conditional exemptions with factors set out in [section 11B of the FOI Act](#). This public interest test specifies certain factors that *must* be taken into account where relevant, and some factors which *must not* be taken into account. Decision Makers must also have regard to the Information Commissioner's guidelines issued pursuant to section 93A.

The public interest test is considered to be:

- something that is of serious concern or benefit to the public, not merely of individual interest
- not something of interest to the public, but in the interest of the public
- not a static concept, where it lies in a particular matter will often depend on a balancing of interests <https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-6-conditional-exemptions>
- necessarily broad and non-specific, and

- related to matters of common concern or relevance to all members of the public, or a substantial section of the public. <https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-6-conditional-exemptions>

It is not necessary for a matter to be in the interest of the public as a whole. It may be sufficient that the matter is in the interest of a section of the public bounded by geography or another characteristic that depends on the particular situation. A matter of particular interest or benefit to an individual or small group of people may also be a matter of general public interest.

The [Information Commissioner's FOI Guidelines, Part 6](#) provides useful examples and guidance to consider when applying the public interest test to conditional exemptions.

8.3 Useful table...

Table 4 – Access to exempt and conditionally exempt documents

Table 1: Access to exempt and conditionally exempt documents

Item	If ...	then ...	because of ...
1	a document is an exempt document under Division 2 (exemptions) or under paragraph (b) or (c) of the definition of exempt document ins 4(1) (s 7 or an official document of a minister that contains some matter not relating to agency affairs)	access to the document is not required to be given	s 11A(4)
2	a document is a conditionally exempt document under Division 3 (public interest conditional exemptions)	access to the document is required to be given, unless it would be contrary to the public interest	s 11A(5) (see also 11B public interest factors)
3	a document is an exempt document as mentioned in item 1, and also a conditionally exempt document under Division 3	access to the document is not required to be given	ss 11A(4), 11A(6), and 32 (interpretation)
4	access to a document is refused because it contains exempt matter, and the exempt matter can be deleted	(a) an edited copy deleting the exempt matter must be prepared (if reasonably practicable); and (b) access to the edited copy must be given	s 22
5	a document is an exempt document because of any provision of this Act	access to the document may be given apart from under this Act	s 3A (objects – information or documents otherwise accessible)

Source: [Information Commissioner Freedom of Information Guidelines, Part 5: Exemptions](#), as at 12 April 2023.

8.4 Neither confirming nor denying the existence of documents

In very limited cases, it may be necessary for a decision maker to consider withholding information about the existence of documents altogether. Section 25 of the FOI Act provides that decision makers do not need to give information about the existence of documents in another document, such as a statement of reasons issued under s 26 of the FOI Act, where doing so would cause the statement of reasons to itself be exempt under particular provisions of the FOI Act. Section 25 is not itself an exemption, and decision makers cannot rely on it unless there is a clear link to one of the relevant exemptions identified in s 25.

Use of s 25 to neither confirm nor deny the existence of documents is exceedingly rare, and should only be recommended after careful consideration by the Principal Legal Counsel responsible for Information Law, usually in consultation with the Deputy General Counsel and other relevant legal teams.

Note! Different areas in the department collect information in different ways, and sometimes there are statutory restrictions on how that information is handled. If an Action Officer indicates the department cannot confirm or deny whether search results identified documents responsive to a request, FOI Officers should immediately raise this with the PLC to consider whether legal advice should be sought from the relevant legal team.

8.5 Handling personal information in documents

8.5.1 Personal information of departmental officers

Departmental officers' names and other personal information may be included in emails, minutes or reports authored by departmental staff. These details are usually dealt with according to the following process.

Below SES level

Names should be read as being within the scope of a request unless they are expressly excluded as irrelevant material by the applicant ([see OAIC guidance para 3.54](#)).

The department advises applicants at the time of acknowledging receipt that the personal information of departmental and ministerial staff below the level of SES or Chief of Staff will normally be redacted as irrelevant material under section 22 of the FOI Act, unless the applicant advises the department they wish to include this information.

This approach proactively manages the risk of exposing departmental staff's personal information with the applicant's right to access documents. It also ensures personal information is only provided where the applicant has confirmed they wish to have access to that information, and documents a clear explanation for the deletion of personal information under s 22 (where applicable). Examples of personal information to be redacted if the applicant does not object include (but is not limited to):

- email addresses;
- physical addresses; and
- landline and mobile phone numbers.

If an applicant specifies that their request is to include the personal information of staff, then FOI Officers should consider whether the personal information is exempt under section 47F of the FOI Act. It may be appropriate to redact staff names under section 47F if, for example:

- the applicant has a history of inappropriately contacting departmental employees; or
- the matter relates to personnel issues such as code of conduct investigations.

FOI Officers should discuss the matter with the Principal Legal Counsel before recommendations are finalised regarding the release of personal information regarding departmental or ministerial staff below SES or Chief of Staff level.

SES level or Chief of Staff

The names, mobile phone numbers and signatures of SES officers and the Minister's Chief of Staff should be released unless they are exempt under section 47F.

8.5.2 Personal information of applicants

Applications for access to a person's own personal information should be processed without imposing charges. However, FOI Officers should follow the procedures to confirm the applicant's identity before information is released.

If the applicant is seeking documents relating primarily to their own employment or personnel management, FOI Officers should encourage them to access the records using the department's established procedures for accessing personnel records (s 15A of the FOI Act) in the first instance.

8.5.3 Personal information of third parties

If a document contains the personal information of a third party, this will usually mean the department should consult with that individual to identify whether exempting the personal information under s 47F of the FOI Act is appropriate.

Refer to [Part 7](#) for more information on how to do this.

9. Preparing documents for release

Scan hard copy documents or save soft copy documents to a folder on your desktop.

9.1 Combining files

- a. Select all documents in scope from your folder, right click and select "Combine file in Acrobat".
- b. Select 'Add', choose all the files you want to combine, and select 'Open'.
- c. If necessary, prefix the file name with numbers to arrange the files in the order you want them combined.

- d. The new file will be combined with name "Binder1".
- e. Go to "File" then "save as" – choose a location and name and make sure the files are being saved in PDF format. Select "Save".
- f. The new Adobe file is combined.

You can also insert or extract pages from documents using Adobe.

9.2 Adding headers and footers

Documents must be marked up with headers and footers before release. In Kofax, when you have the combined document for release:

- a. In the header, go to 'Edit → Headers and Footers → Add'
- b. Enter the following settings:
 - Name: Arial
 - Size: 8
 - Colour: red
- c. In the Header – Left section, add 'DISR – for release under the FOI Act'
- d. The Header-Left section could be saved as a template. Hit "Save Setting" button after step c, name the template, e.g. "Left section header". Then "OK". The template is ready to use when you select the name of template from "Saved Setting" dropdown box.
- e. After you select template for "The Header-Left section", in the Header-Right section, add the LEX number. Skip this step if multiple documents have been combined.
- f. Click on the box under "Right Footer Text", then click "Insert Page number". Also skip this step if multiple documents have been combined.
- g. Select 'OK'.
- h. If multiple documents have been combined, re-open the 'Add' window and select 'Page Range'. Enter the page range for the first document and select 'OK', then enter 'Document X – LEX XXXXX' in the Header – Right field. Select 'OK' and repeat this process for each separate document in the combined document.

9.3 Making redactions

- a. Either:

- i. Open Adobe Acrobat from your computer, go to the 'Home' tab and select 'From File'. Choose the file you want to mark redactions for.
 - ii. From the File Explorer, right-click on the document you want to open. Select 'Open with à Adobe Acrobat or double click the document.
- b. Open the 'Redact' tab and select 'Properties under "Redact Text & Images" and enter the following settings:
 - Mark Colour: white
 - Font: Helvetica, size 10, colour red and alignment Left
 - Select Custom Text and enter the exemption being used (e.g. s22)
 - Under "Redaction Mark Appearance", choose
 - Outline color "red"
 - Fill color "no color"
 - Fill Opacity "100%"
- c. Select 'OK'
- d. When the mouse hovers on the document, it will change a cross shape and you can then swipe it over the area which is to be redacted.
- e. Click and drag the mouse over text and images to mark redactions. Areas with marked redactions will have a red border placed around them, and you can hover over the box to view what the redactions will look like once applied.
- f. To apply different exemptions, open the Redaction Properties window and change the custom text field.
- g. Once all redactions have been marked, save a copy of the document with 'MR' in the title.
- h. Once redactions have been finalised, ensure a marked redactions version is saved before selecting 'Apply'
- i. Always leave the "Sanitize and remove hidden information" button on to remove all hidden data and metadata from the documents.
- j. Select "Continue". Once the redactions have been applied, they cannot be removed.
- k. Save the document with "AR in the title.

Searching and redacting

If this is considered a secure operation for your branch, documents can be searched for certain phrases or words to be redacted. To do this:

- a. Select 'Search and Redact' from the 'Redact Text & Images' tab.
- b. Select 'OK' from the pop up box.
- c. Enter a search term in the search box. Select 'Search and Remove Text'.
- d. All instances of the word or phrase in the document will be listed, with the search term in blue. Select the instances of the term to be redacted and select 'Mark Checked Results for Redaction'. These redactions will now be marked.

9.4 Declassifying documents after redactions have been applied

All classification markings (protected, sensitive, sensitive legal) which appear in documents being released to an Applicant or on the disclosure log must have the classification struck through.

~~**PROTECTED**~~

To do this:

- a. Open your document in Adobe Acrobat DC (Adobe Pro);
- b. Using the "Selection tool" highlight the classification marking;
- c. A rectangle box should appear; and



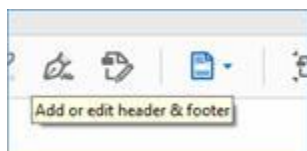
- d. Select the strikethrough option;



- e. The classification will now be struck out.

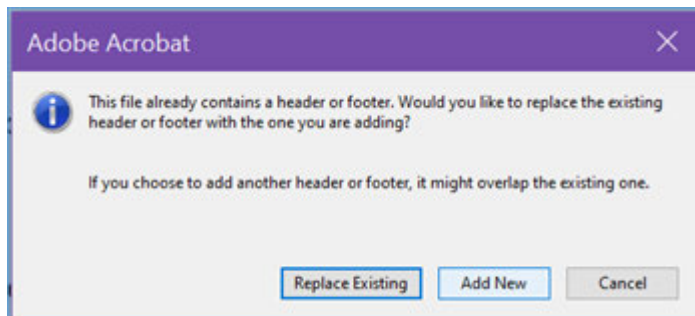
9.5 Guidance on using headers and footers

Locate add header button and select 'Add' (this ribbon can be customised; your header button may be located in a different place):

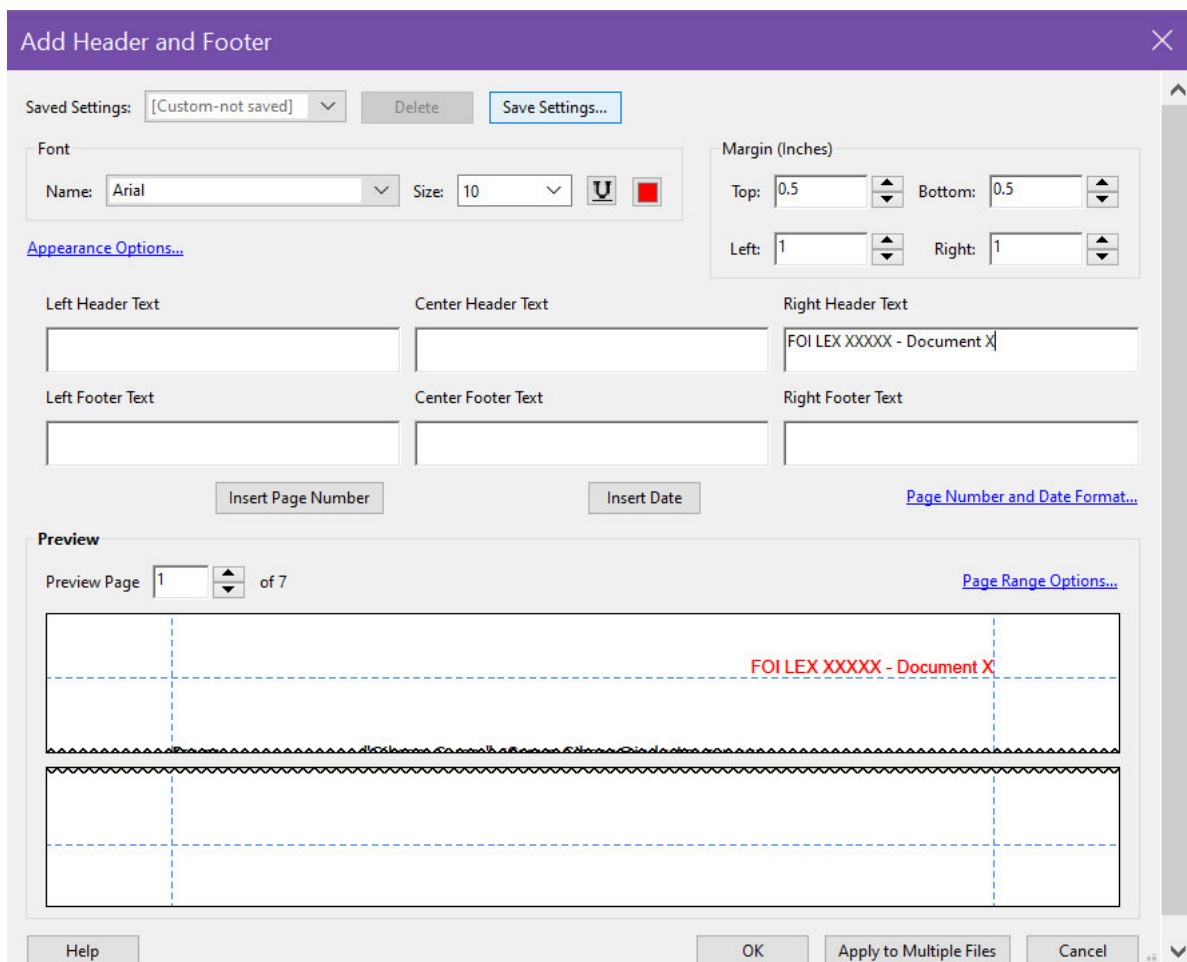




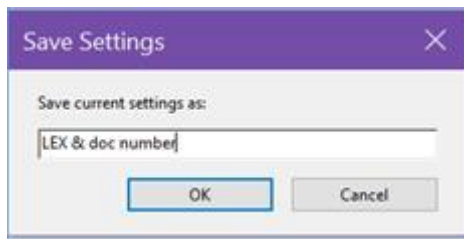
You may get this pop up. If so, select 'Add New':



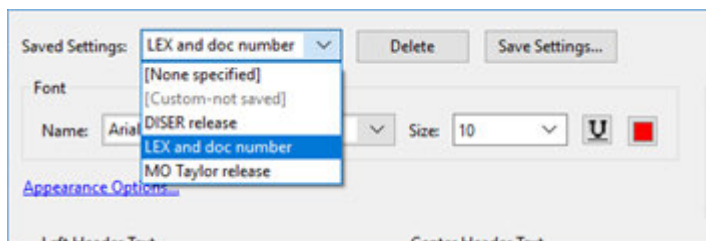
Under font, set 'Arial' size 10, colour red. Under Right Header Text, enter 'FOI LEX – Document' ('XXX' optional). Alternatively, enter spaces, eg. 'FOI LEX - Document '. Then at the very top, click 'Save Settings...':



Name the header, eg:



Then your saved header setting will appear in the drop down list. To apply, select saved setting from drop down, enter LEX and doc number under right header text, then select 'OK' at the bottom.



10. Disclosure Log

Documents released under the FOI Act must be published on the department's disclosure log, unless:

- It is not reasonably practicable to do so; or
- it would involve the unreasonable publication of:
 - Personal information
 - Information about someone's business, commercial financial or professional affairs
 - Information the Australian Information Commissioner determines should not be disclosed.

Disclosure logs from recent years may be found on the department's externally-facing [FOI page](#).

The notice of decision will specify whether the documents are to be put on the disclosure log, and if so, that this is to be done within 10 days of the release of the documents to the applicant (if omitted, refer to 'Disclosure Log Determination' below).

The disclosure log determination is a separate decision captured by the notice of decision template. It is important to consider whether disclosure is appropriate at the time of drafting the recommendations and decision for the Decision Maker.

It is important to carefully consider the requirement to consult having regard to the unique circumstances of each case prior to publishing documents on its disclosure log and/or third-party websites.

11. Alternative options to access documents

The FOI Act closely regulates the way that agencies and ministers must process requests for access to documents. However, it does not limit the ways in which a department may decide to otherwise give access to documents it holds.

In some cases, it may be preferable to provide access to requested documents outside the FOI Act. This may be where the documents are subject to the open access period, or where it is simpler and more straight forward for the department and the applicant to disclose documents through administrative release.

11.1 Administrative release

The department may choose to provide administrative access outside the formal FOI Act request process. This may be as informal and flexible as providing information or documents when requested by a member of the public or collating and releasing data or statistics following a specific request. The [Information Commissioner provides helpful guidance](#) on the key differences between FOI requests and administrative access.

Administrative release can offer benefits to agencies and members of the public. The advantages of administrative release include that it:

- advances the objects of the FOI Act to foster open government
- encourages flexibility and engagement with the public
- can rely on technology to facilitate easy collation, integration and distribution of information
- can offer a lead-in to the FOI process by enabling an applicant to clarify the type of information requested from an agency
- aligns with the broader movement in public administration to facilitate dialogue and negotiation between parties before formal legal processes are used
- potentially offers cost benefits and quicker processing times.

Where appropriate, Decision Makers may elect to release non-sensitive documents administratively rather than under the FOI Act.

When considering administrative release, the Decision Maker may have regard to the following factors:

- documents released in this way must be released in full; and
- documents released in this way do not need to be placed on the public disclosure log.

Once the Decision Maker instructs the FOI team of their decision to release administratively in writing, send an email to the applicant using the Outlook template 'Administrative Access'.

- where the documents are publicly available online, the FOI Officer may provide a link to the documents.
- If the documents are not publicly available, the FOI Officer attach the requested documents to the email.

The FOI request is deemed withdrawn once the documents are provided.

Note! As administrative release occurs outside the FOI Act, the protections in the FOI Act against civil liability and criminal prosecution do not apply.

Always check the information to make sure it is appropriate to be released outside the FOI Act.

11.2 Documents that are publicly available

Sometimes a request may cover documents that are publicly available. The FOI Act does not require the department to give access to all documents that are already in the public domain. FOI Officers should consider whether it is reasonable to consider publicly available documents outside the scope of the FOI Act on a case-by-case basis, having regard to the following:

- the department should not give access to documents which are publicly available for purchase (whether through the department or a third party);
- consider whether a third party is more appropriately the only source from which documents should be provided;
- whether the material can be given to the applicant through administrative release;
- whether there are reasons supporting the formal decision making process, notwithstanding public availability.
 - For example, an applicant may request access to reports or other material that is published on the department's website. Usually it would be cheaper and faster to agree with the applicant to provide this via administrative release. However, if an applicant is repeatedly requesting the same information, it may be preferable to have a well documented FOI request and consider imposing charges.

11.3 Documents subject to public access period

If documents are open to public access under other arrangements (for example, via the National Archives of Australia), these documents will be considered outside the scope of a request and a Notice of Decision may refer the applicant to the appropriate place to obtain copies of the documents.

11.4 Requests for access to personnel records

A personnel record means those documents containing personal information about an employee or former employee that an agency has kept for personnel management purposes (s 15A(1)).

If an agency has established procedures for access to personnel records, an employee or former employee may only apply for access to their records under the FOI Act if they have previously made a request under those agency procedures and is either not satisfied with the outcome or has not been notified of the outcome within 30 days.

12. Assisting the Minister's Office to process requests

The FOI team supports each minister's office with any FOI requests they receive. The FOI team may also be asked to provide FOI training and/or advice on FOI requests received by, or transferred to, the minister's office.

In circumstances where an FOI request has been received by the Department for documents held by a Minister's Office, consider:

- If the request should be transferred under s16 to the department; or
- If the Minister's Office would like to process the request.

For guidance on official documents of a minister, refer to FOI Guidelines 2.45 – 2.55.

Each Minister's Office have their own preferences regarding how they wish to handle their FOI requests. Generally, the DLO is the point of contact however a Minister's Office may wish to assign an adviser or senior advisor to be the FOI team's point of contact regarding FOI matters.

Using the email template 'New FOI Request for MO' forward request to the Minister's Office and await further instruction and assist the Minister's Office as required.

Important! Any decision made by a member of the Minister's staff is taken to be made by the Minister (Refer 2.26 FOI Guidelines). Because of this, these decisions are not subject to internal review.

Slides for training provided to the Ministers' Offices can be found in [DocHub](#), the Information Law [OneNote page](#) and [here](#).

13. Reviews of FOI decisions

The FOI Act provides for reviews of agency decisions made under the FOI Act. These can be either internal reviews conducted by the agency or Information Commissioner review conducted by the OAIC.

13.1 Internal Reviews of departmental decisions

13.1.1 Overview

Internal review enables an agency to reconsider in full both the FOI request and the original agency decision on that request. The internal review officer can exercise all the powers of the original Decision Maker, including clarifying the scope of the request with the applicant, redoing any work undertaken at the primary decision-making stage and reaching a different view on any aspect of the original decision. The internal review officer should also consider any change in circumstances or new information or evidence that has come to light since the original decision. Internal review decisions should not merely restate or affirm the original decision without explanation.

The Secretary has [authorised officers](#) at level SES Band 2 and above to make internal review decisions. In most cases, this means the Head of Division for the original decision will be the Decision Maker for internal reviews. This ensures a different person makes the internal review decision but is still a person well placed to be a relevant subject matter expert.

13.1.2 Decisions subject to internal review

Two categories of decision are amenable to internal review under the FOI Act:

1. an 'access refusal decision' (s 53A): the FOI applicant may apply for internal review of an access refusal decision (s 54) and
2. an 'access grant decision' (s 53B): an affected third party may apply for internal review of an access grant decision (s 54A).

13.1.3 Process

Where a request is received for internal review, the second Information Law PLC responsible for internal reviews and external reviews will have oversight.

- a. The FOI officer responsible for the original request (if available, otherwise the Senior FOI officer) will immediately notify the responsible PLC.
- b. The FOI officer will assist the PLC to:

- i. Clarify the request with the applicant if need be (i.e if there is a question on whether the request is valid or not) and/or acknowledge the request.
- ii. Identify the appropriate internal review Decision Maker with authority to make internal review decisions, being SES Band 2 or above.
- iii. Set the matter up in LEX, Content Manager, and Outlook. These processes are outlined in section 2.4. However, note these variations for LEX:
 - When entering main details:
 - **Matter Name:** Internal Review – Applicant (Organisation) – IEFXX/XXXX
 - **Category:** FOI Internal Review
 - Additionally, go to the ‘Related matters’ page and select ‘Link to existing matter’. Find the original decision and select ‘OK’.

Note! Where a third party has requested internal review (as a result of a consultation), it is necessary to notify the applicant of the internal review request and the impact this will have on the timing of the release of documents.

- a. The PLC will nominate an Action Officer, who will notify the internal review decision maker of the request and next steps (please refer to template email “FOI – New Internal Review request – Applicant Name – LEX XXXX”)

13.2 OAIC review

13.2.1 Overview

The Information Commissioner has oversight of the operation of the FOI Act and can review decisions made by agencies and ministers under that Act. The Information Commissioner is usually the first route of external review for an applicant if they are dissatisfied with the Department’s decision on an FOI request or internal review.

The Information Commissioner’s decision is then considered a *reviewable decision* such that it can be appealed to the AAT (and beyond).

Where the Information Commissioner notifies the department of a review of the department’s decision, the original Decision Maker must be informed.

13.2.2 What is an OAIC submission?

When the Information Commissioner receives an application for review of an FOI decision, their office will contact the department seeking submissions as to why the Information Commissioner should affirm the department’s FOI decision subject to review.

The Senior Legal Counsel allocated to the matter will be responsible for drafting the submission, informed by the Senior FOI Officer's expertise on the original and any internal review decision.

The Information Commissioner considers the department's submissions in coming to their own decision. The matter will not always proceed to a final Information Commissioner determination, particularly where the department decides to release further information in the course of the review, or where they better set out their reasons as to why certain information was considered exempt at first instance.

Important! It is important to consider when drafting submissions whether it may be appropriate to make a fresh FOI decision to release more information.

13.2.3 Process

Where a request is received for OAIC review, the responsible Principal Legal Counsel will allocate it to lawyers for action, including for advising the relevant Head of Division of the application.

The Principal Legal Counsel or a Senior FOI Officer will set the matter up in LEX using the following system:

1. Set the matter up in LEX, Content Manager, and Outlook. These processes are outlined in section 2.4. However, note these variations for LEX:
 - When entering main details:
 - **Matter Name:** OAIC Review – Applicant (Organisation) – IEFXX/XXXX
 - **Category:** FOI OAIC Review
 - Additionally, go to the 'Related matters' page and select 'Link to existing matter'. Find the original decision and any internal review decision and select 'OK'.
2. Senior FOI Officer will provide the following documents to the Senior Legal Counsel:
 - application for OAIC review
 - decision subject to review
 - documents subject to review
 - the original request subject to review

- all correspondence with third parties consulted during the course of the request
 - any recommendations provided to line area regarding strengths of exemption claims during the processing of the request
3. any other documents that are required or requested by the Senior Legal Counsel.
 4. The Senior FOI Officer is to be available throughout the review to help explain the background to the request and provide further documents.
 5. Senior FOI Officer or Senior Legal Counsel, as appropriate, to issue section 54P notices to all third parties consulted as part of the request.
 6. Senior Legal Counsel to review the file and meet with Senior FOI Officer and the responsible Principal Legal Counsel responsible for FOI to discuss strategic approach and any recommendations.
 7. Once approach is settled, Senior Legal Counsel to prepare high level recommendations and schedule meeting with the instructing SES officer.
 8. Following this meeting, Senior Legal Counsel to draft submissions consistent with agreed approach.
 - The responsible Principal Legal Counsel and General Counsel will clear these submissions.
 - The instructing SES officer reviews the submissions.
 9. Once cleared, the Senior Legal Counsel is to send the submission to the Information Commissioner.

The process set out in Part 10 of the [Guidelines issued by the Australian Information Commissioner](#) should be followed and regular updates provided to the relevant Head of Division.

13.3 Administrative Appeals Tribunal review process

Where the department receives a notice that a party has sought review of its decision by the Administrative Review Tribunal (ART) the original Decision Maker and relevant Head of Division must be informed. The matter will be handled by the Dispute Resolution team in the Legal Practice, as instructed by the relevant business area and in consultation with the Information Law team.

The [Freedom of Information Practice Direction](#) applies to applications lodged with the AAT for a review of a decision.

Appendices

A. FOI authorisation instruments

[Secretary's Authorisation](#)

Ministers' Offices authorisations:

B. Key Resources

[FOI Act](#)

[Frequently Asked Questions and guidance for line areas](#)

[OAIC Guidelines \(June 2020\)](#)

[DocHub – FOI](#)

[LEX](#)

[iCentral](#)

[EA/SES contact list](#)

[OAIC extension request form](#)

[Guide to the quarterly and annual FOI Act statistical returns to the OAIC.](#)

C. LEX Terminology and File Notes

Use the following as a guide when updating progress of the matter in the 'Status' field on the Main details page. Of note:

- Include enough detail that the user does not need to search emails or Content Manager, eg. include due dates, number of docs, exemptions claimed, disclosure log details etc.
- Maintain succinct notes once they are no longer current. eg. Once the completed search minute is received, go back to the previous file note and delete the due date for the search minute because that information is no longer essential.

Documents not subject to the FOI Act – discretionary subject to workloads

- [dd/mm/yyyy] – applicant notified that there is no right of access under the FOI Act for documents available under another arrangement for a charge, and provided details of that arrangement.
- [dd/mm/yyyy] – applicant notified that there is no right of access under the FOI Act as the document[s] requested is maintained for reference purposes and is otherwise publicly available.

Receive new primary request

- [dd/mm/yyyy] – received request direct from applicant.
- [dd/mm/yyyy] – notified Head of Division (HoD) and preliminary priority rating (PPR) assigned ([PPR rating])
- [dd/mm/yyyy] – HoD nominated Decision maker (DM) and confirmed PPR ([PPR rating])
- [dd/mm/yyyy] – document search minute (DSM) sent to DM
- [dd/mm/yyyy] – DM assigned Action officer (AO)
- [dd/mm/yyyy] – kick off meeting with DM/AO/FOI Team / kick off meeting not required
- [dd/mm/yyyy] – completed DSM received. [X] documents (totalling [X] pages)

Acknowledge

- [dd/mm/yyyy] - request acknowledged.
- [dd/mm/yyyy] - Applicant confirmed no personal information requested.

Transfer

- [dd/mm/yyyy] - Accepted s16 [part] transfer of request.
- [dd/mm/yyyy] - sought agreement to s16 transfer request [in part] to [agency].
- [dd/mm/yyyy] - [agency] agreed to accept transfer.
- [dd/mm/yyyy] - matter finalised – request transferred to [agency].

Scoping and practical refusal

- [dd/mm/yyyy] – informal consultation on scope sent. Response due XX Month Year
- [dd/mm/yyyy] – preliminary search results received. X documents (totalling [X] pages)
- [dd/mm/yyyy] – notice of intention to refuse (s 24AB – practical refusal) sent. Response due XX Month Year. Clock stopped. X days remaining.
- [dd/mm/yyyy] - Revised scope received.
- [dd/mm/yyyy] – Revised scope sent to line area for consideration.
- [dd/mm/yyyy] – Revised scope is acceptable to process
- [dd/mm/yyyy] – Revised scope is still too voluminous to process. Proceed to s24 – Practical Refusal.
- [dd/mm/yyyy] - Revised scope accepted. Notified Applicant. Clock restarted. XX days remaining.

Notified Preliminary Charge

- [dd/mm/yyyy] - applicant notified of charge [\$amount].
- [dd/mm/yyyy] - applicant notified of charge [\$amount] and that the time period for processing the request has been extended by 30 days to allow for third party consultation.

Charge Received

- [dd/mm/yyyy] - received payment of the charge in full [\$amount].
- [dd/mm/yyyy] - received payment of charge deposit [\$amount].
- [dd/mm/yyyy] - received payment of balance of the charge [\$amount].

Charge Contention

- [dd/mm/yyyy] - applicant contended charge should be [reduced / not imposed] on [public interest / financial hardship] grounds/the charge has been wrongly assessed. Waiver decision due XX Month Year.
- [dd/mm/yyyy] - notified DM of request for waiver.
- [dd/mm/yyyy] - DM affirms/waives/reduces charge.
- [dd/mm/yyyy] - Waiver decision sent to applicant. Response due XX Month Year.
- [dd/mm/yyyy] - Applicant sought internal review of charge decision.

Charge Decision – Primary

- [dd/mm/yyyy] - decision made to impose the charge [\$amount].
- [dd/mm/yyyy] - decision made to reduce the charge by [percentage%] to [\$amount].
- [dd/mm/yyyy] - decision made to not impose the charge.

Charge Decision – Internal Review

- [dd/mm/yyyy] - internal review decision made to affirm the charge in full.
- [dd/mm/yyyy] - internal review decision made to set aside the charge decision and reduce the charge by [percentage%] to [\$amount].
- [dd/mm/yyyy] - internal review decision made to set aside the charge decision and not impose the charge.

Consultation

- [dd/mm/yyyy] - applicant notified that the time period for processing the request has been extended by 30 days to allow for third party consultation.
- [dd/mm/yyyy] - letter and documents sent to third party for consultation.
- [dd/mm/yyyy] - letters and documents sent to [no.] third parties for consultation.
- [dd/mm/yyyy] - courtesy consultation sent to [agency].
- [dd/mm/yyyy] - received response from third party[ies] – no objection to the release of documents.

- [dd/mm/yyyy] - – [dd/mm/yyyy] - received response from third party[ies] – objection to the release of [certain] documents.

Decision

- [dd/mm/yyyy] - decision made to release [no.] pages in full.
- [dd/mm/yyyy] - decision made to release [no.] pages in full and a further [no.] to a nominated qualified person.
- [dd/mm/yyyy] - decision made to release [no.] pages in full or in part. Exemption[s] claimed: [insert exemptions].
- [dd/mm/yyyy] - decision made to exempt documents in full. Exemption[s] claimed: [insert exemptions].
- [dd/mm/yyyy] - decision made to refuse access to documents as they [cannot be found / do not exist].
- [dd/mm/yyyy] - decision made to refuse request as the work involved would amount to a substantial and unreasonable diversion of the department's resources.
- [dd/mm/yyyy] - third party notified of decision and provided with information regarding rights of review.
- [dd/mm/yyyy] - notified MO of decision, decision to be released [XX Month].

Release of documents

- [dd/mm/yyyy] - documents released to applicant.
- [dd/mm/yyyy] - documents released to nominated qualified person.
- [dd/mm/yyyy] - documents released to applicant following expiration of third party's rights of review.

Disclosure Log

- [dd/mm/yyyy] - disclosure log determination made – no publication required (personal information exception).
- [dd/mm/yyyy] - disclosure log determination made – no publication required (business affairs exception).
- [dd/mm/yyyy] - disclosure log determination made – no publication required (personal and business affairs information exception).

- [dd/mm/yyyy] - disclosure log determination made – no publication required (extent of modification necessary).

Finalised

- [dd/mm/yyyy] - matter finalised – request withdrawn by applicant.
- [dd/mm/yyyy] - matter finalised – no payment of the charge received.
- [dd/mm/yyyy] - matter finalised – no request for review received.
- [dd/mm/yyyy] - matter finalised – no response received within consultation period.

Internal review

- [dd/mm/yyyy] - received request for internal review.
- [dd/mm/yyyy] - internal review decision made [insert details of decision].

OAIC review

- [dd/mm/yyyy] - OAIC advised that they have received request for review of decision.
- [dd/mm/yyyy] - OAIC considering whether to conduct a review
- [dd/mm/yyyy] - OAIC advised intention to conduct a review.
- [dd/mm/yyyy] - OAIC advised that they will not conduct a review.
- [dd/mm/yyyy] - notified third party of OAIC review.
- [dd/mm/yyyy] - submissions provided to OAIC.
- [dd/mm/yyyy] - OAIC decision made [insert details of decision].

File Notes

D. Action Officer checklist for processing an FOI request

Following receipt of a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) the Department has strict statutory timeframes to process a request. The following checklist may be useful to provide to Action Officers who are unfamiliar with the FOI process.

You are required to do the following:

- | | | |
|---------------|--|--------------------------|
| Step 1 | Advise the FOI team of the appropriate contact person and the Decision Maker in your area. | ☐ |
| Step 2 | Consider the scope of request & advise the FOI team if the scope needs clarification or too broad to be processed. | ☐ |
| Step 3 | Identify & retrieve all documents within scope. | ☐ |
| Step 4 | Review documents and flag any third parties and sensitivities you have identified in relation to the possible release of the documents. | ☐ |
| Step 5 | Provide documents to the FOI team with a copy of the signed Search Minute. | ☐ |
| Step 6 | A charge may be payable for a request. FOI team will prepare a preliminary estimate of the charge for Decision Maker's consideration and signature, using sampling where appropriate. The processing time will pause until any charges are paid by the applicant. | ☐ |
| Step 7 | When a deposit of charges or full payment is received, the FOI team will prepare a draft decision letter together with the identified documents for the Decision Maker's signature. | ☐ |
| Step 8 | Decision Maker will review the identified documents and decision letter then make a decision. If the Decision Maker wishes to make changes on the decision letter, please use track changes on draft then send the letter back to FOI team for update and records. | ☐ |
| Step 9 | FOI team will then send updated version to Decision Maker to sign off (including one set of documents with redactions marked, and one set with redactions applied). | ☐ |

Step 10 After the decision is made, FOI team will notify the Minister's Office by email with a copy of the decision, documents to be released to the applicant s 47E(d) before the decision is released. If the Minister's office requires further information regarding issues raised by the documents, the Decision Maker will provide the additional information.

☐

Step 11 Decision Maker to clear the reference to the documents to be published on the Department's Disclosure Log within 10 days after the release of the documents.

☐

If you require clarification or advice at any stage of the process, contact the FOI team at FOI@industry.gov.au or on s 47E(d) .

F. Requests for briefing material

Below is a short policy providing guidance regarding the department's approach to processing FOI requests for briefing material.

Handling FOI requests for briefing material

The *Freedom of Information Act 1982* (FOI Act) regulates the way that agencies and ministers must process requests for access to documents made under that Act.

To ensure it complies with the FOI Act and handles all requests in a consistent and fair manner, the Department of Industry, Science and Resources (department) processes all requests made under the FOI Act in accordance with its FOI Procedure Manual.

Requests for briefing material

The department sometimes receives requests under the FOI Act for briefing material prepared for ministers and the senior executive. These requests are typically for Senate Estimate briefing packs or Question Time Briefs but may include other types of briefing material.

Handling approach

The department must assess each request on its own merits. This means the department does not adopt a blanket approach whereby all requests for briefing material are automatically processed in the same way. Instead, the department will review a request for briefing material and:

1. If the request is not unreasonably large, process the request in accordance with usual processes.
or
2. Where it is not immediately apparent how large the scope of the request is:
 - Conduct preliminary searches to confirm the volume of documents and calculate likely charges, using sampling where appropriate (see para... ; and
 - Either continue to process the request or invite the applicant to refine the scope of the request so that it may be processed.or
3. Where it is apparent from recent similar requests that the scope will be unreasonable to process, work with the applicant to refine the scope until it is reasonable to process. This may be done through a notice of intent to refuse or informally.

Notwithstanding this, in recognition of the additional sensitivities these documents may hold, the FOI team has developed additional steps to ensure appropriate visibility of these requests and encourage consistent decision-making in the department and across Commonwealth agencies:

1. Notification of requests for briefing material

The FOI team notifies the Secretary, the Deputy Secretary Enabling and Business Services, and the relevant Minister's Office, upon receipt of request for briefing material.

2. Consultation with the Ministers' Offices

The FOI team requests comments from the relevant Minister's Office at the same time as conducting other courtesy consultations on the information in the documents within scope of the request.

Consultations with Ministers' Offices are classified as courtesy consultations, which do not attract extensions of time. The FOI team works with the Minister's Office to give as much time as possible, having regard to the sensitivities and statutory timeframe for decision making.

3. Consistency with other Commonwealth agencies

Each agency is responsible for making independent decisions under the FOI Act. The department engages with other Commonwealth agencies through formal meetings and ad hoc communications to encourage consistent decision-making across Commonwealth agencies.

Parliamentary Privileges exemption

Information the disclosure of which is likely to improperly interfere with a member of Parliament's free performance of his or her duties as a member, is exempt from disclosure under the FOI Act as it may breach the privilege of Parliament (see section 46(c)).

Senate Estimates and Question Time Briefs are written in the context of preparing department officials and Ministers for making information public. Consistent with [guidance from the Office of the Australian Information Commissioner](#) and Australian Government Solicitor advice (see *LEX 72946*), the exemption under section 46(c) of the FOI Act will not generally apply to material in briefing packs as it was prepared in contemplation of being made public, so it is difficult to identify any harm which would flow from its disclosure.

Depending on the content of the documents, the FOI team will consider whether other exemptions may apply.

G. FOI standard 30 day timeline

TIME	STAGES	FOI OFFICER (RESPONSIBILITY)	ACTION OFFICER	FOI DECISION MAKER
		The primary source of advice and guidance on FOI requests. Authorised decision-makers. • Undertakes case management for FOI requests. • Are authorised to make decisions on practical refusals, imposing charges (and internal reviews related to charges decisions) and access decisions where the documents cannot be found or do not exist. • Responsible for preparing documents for release in consultation with line area and decision-maker. • Conduit between Department and MOs on FOI matters. • Second counsel on decisions etc. • Monitors quality of documents. • Escalates issues to Principal Legal Counsel as required. • Provides administration and procedural support to decision-makers.	• Identifies, locates and retrieves all relevant documents within the scope of the request. • Identifies and communicates any sensitivities to the FOI Officers. • Addresses and communicates any risks presented by decision to management.	Authorised decision-makers.

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Day 0	Validity Check	• Receives request. • Determines validity • Identify Decision Maker via email to relevant Head of Division- to establish DM • Identifies significant requests		
CLOCK STARTS NOW				
By Day 01	Create LEX & Content Manager Records and DSM	• Creates a Content Manager and LEX record. • Creates a Document Search Minute (DSM).		
By day 02	Document Search & Decision Maker Notification	• Sends DSM to Decision Maker and Line Area. • Ongoing discussion regarding scope with line area. • Records request in Statistics spreadsheet. • Schedules and monitors deadlines.	• Identifies and retrieves relevant documents (including those held by contracted service providers if required) OR • Identifies whether scope of request too large and provides information for drafting practical refusal notice including obtaining sample of documents.	• Considers request and nominates a contact officer

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By day 14	Acknowledgment	• Acknowledges request. • Seeks confirmation from applicant that personal information can be excluded from the request		
Other By day 9 Personal By day 14	Provision of Documents	• Receives documents. • Preliminary review of documents to determine whether within scope, whether they contain sensitivities, whether consultation is required or whether a practical refusal reason exist • Discusses sensitivities with line area.	• Arranges Branch Manager sign-off of DSM. • Provides copy of original documents to FOI Officer, identifies sensitivities and provides estimate of search/retrieval time.	
Other By Day 10	Charges Decision and Notification	• Calculates charges (if non-personal) using AGS calculator and makes appropriate adjustments. • Make recommendation to Decision maker as to whether to impose charges. • If applied, creates Charges File Note and Charges Notice. • Sends charges notice to Applicant.		• Decides whether to impose charges.
CLOCK STOPS UNTIL RESPONSE TO CHARGES NOTIFICATION RECEIVED				
Other Days	Document Analysis, Preparation & Third	• Prepares practical refusal notice if required. • Marks up exempt material on the basis of sensitivities	• Provides information to FOI Officer to facilitate decisions on whether	• Identifies whether consultation is necessary (including third party

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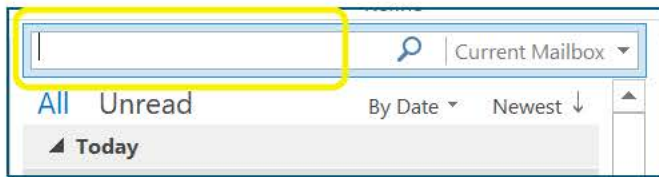
11-18	Party Identification	identified by Action Officer / Decision maker. - Discusses concerns and sensitivities with line area. - If necessary, prepared consultation documentation.	documents/material are exempt. Identifies and communicates sensitivities.	consultation and courtesy consultation).
Personal				
By day 21				
CLOCK PAUSED BY UP TO 14 DAYS IF PRACTICAL REFUSAL NOTIFICATION SENT TO APPLICANT CLOCK EXTENDED BY 30 DAYS IF THIRD PARTY CONSULTATION (timeframes are marked in italics and with an *)				
Other		- Prepares and finalises draft decision, schedule of documents and marked-up documents for consideration. - Maintains Content Manager and LEX records to support and provide evidence of the proposed decision.		Considers final decision letter, schedule of documents, marked up documents.
By Day 22				
Personal	Draft Access Decision	- Prepares and sends draft decision and documents to Decision Maker - Includes disclosure log decision in the draft decision - Provides assistance and support to decision-maker in making final decision		Decision Maker to provide signed decision by return due date provided by the FOI Officer
By day 26				
*(47-50)				
By Day 28	Decision Finalisation and Notification	Notifies MO, Media and General Counsel of proposed decision s 47E(d)		

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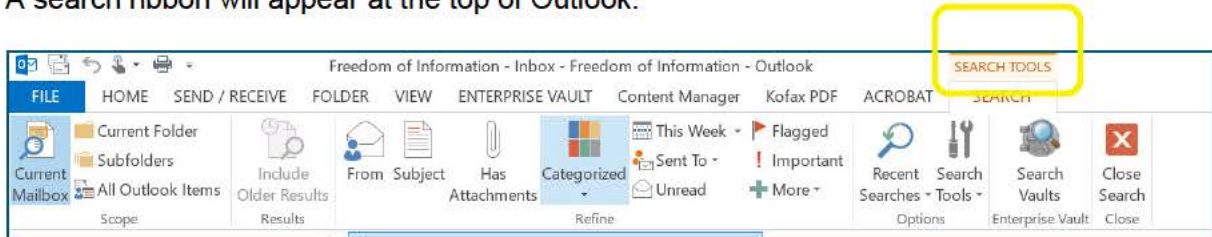
*(50-58)		• Makes any required changes to decision letter and redactions to documents for release. • Maintains LEX record.		
By Day 30 *(60)	Final Decision	• Sends final decision and documents to Applicant. • Update LEX record.		
By Day 40 *(74)	Disclosure Log	• Prepares Disclosure Log Decision File Note as per the Notice of Decision. • Arranges for Disclosure Log Update via email to Digital team. • Update LEX and Content Manager record		• Reviews Disclosure Log Decision. • Approves final Disclosure Log publication as part of notice of decision considerations.

H. Using Advanced Search function in Outlook

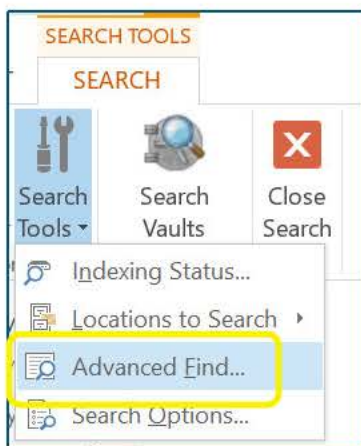
Click into your search bar:



A search ribbon will appear at the top of Outlook:

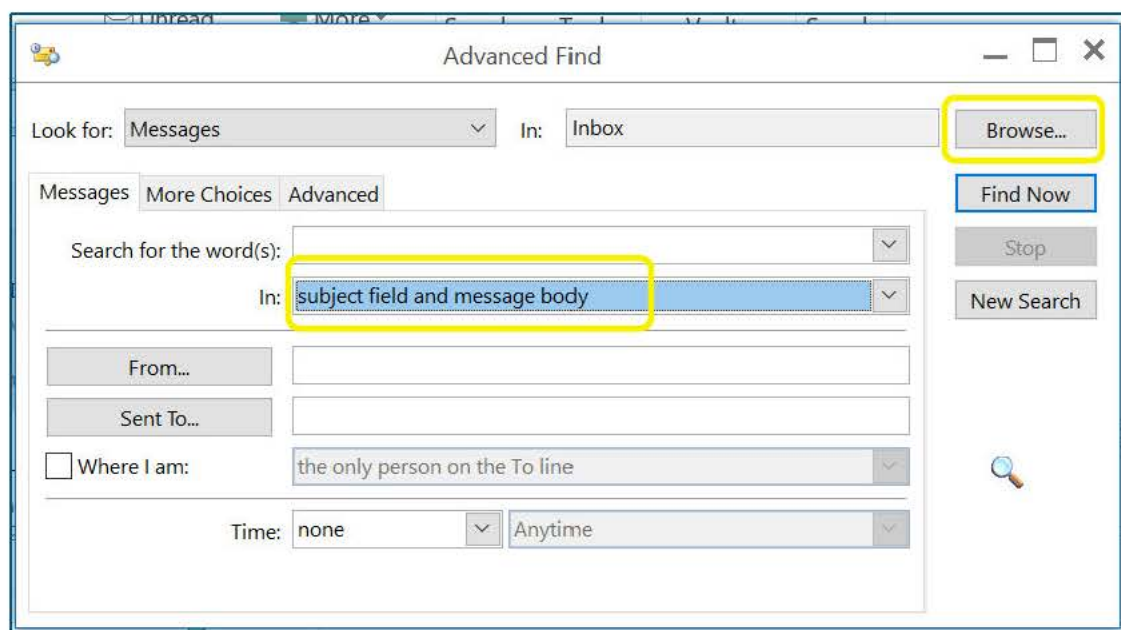


Click on Search Tools, then select 'Advanced Find...':

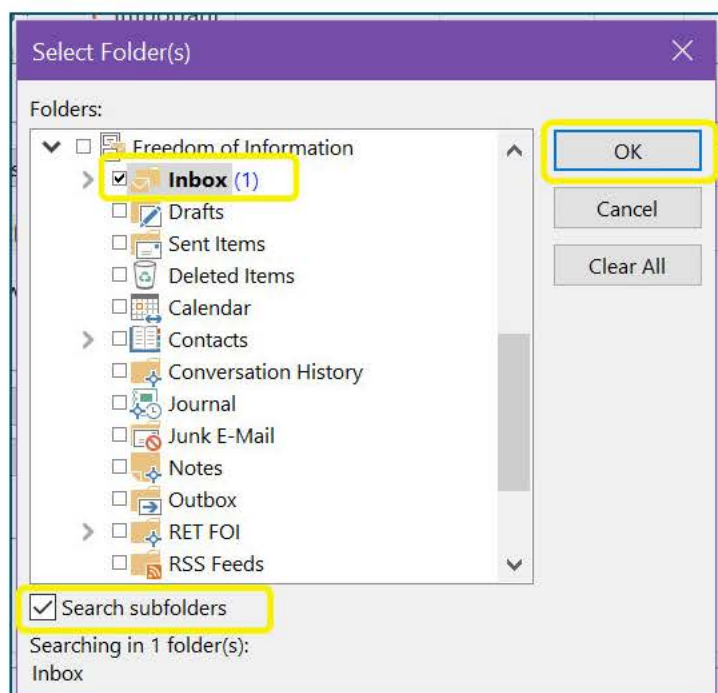


A new window will appear with options for searching. Put your key word/s into the search bar (e.g. Coal), and select 'subject field and message body' on the "In" line.

In the top right corner, click "Browse":



A new window will open. Select the appropriate folder to search (eg. 'Inbox') and select 'search subfolders', then click OK.



Click 'Find Now' to start the search.

Advanced Find

Look for: Messages In: Inbox Browse...

Messages More Choices Advanced

Search for the word(s):

In: subject field and message body

From...

Sent To...

☐ Where I am: the only person on the To line

Time: none Anytime

Find Now

Stop

New Search





LEX for FOI

User guide

Purpose

LEX for FOI is the department's stand-alone matter management system for FOI matters. The following process guide is intended to be used by FOI staff to ensure accurate data collection and recording of FOI matters, internal reviews, external reviews and complaints.

System functions:

- Tracking statistics on FOI requests for the purpose of mandatory reporting, Senate Estimates, and Questions on Notice.
- Tracking the progress of matters for executive and ministerial reporting.
- General matter management.

LEX for FOI is not intended to record FOI Legal advice or procurement activities, which will continue to be recorded in Legal LEX by the legal branch and the Practice Management Unit (PMU). FOI ART matters will continue to be managed by the Dispute Resolution branch and recorded in Legal LEX.

Intended users:

- FOI Officers,
- FOI Lawyers (to the limit of FOI matter management) and
- FOI Leadership team.
- Access is provided to all staff in the Information Law Branch, for portability of work.

The guide should be referred to at all times when creating, updating and closing matters in the system.

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1. Setting up a new matter in LEX

1. Go to 'Add Matter'



2. You will be presented with the following fields that need to be completed:

Add Matter
[Clear my defaults](#) | [Update my defaults](#)

Applicant		(*)
Decision Maker		
Action Officer		
FOI Officer	6. Information Law s 22(1)(a)(ii)	(*)
FOI Supervisor		
Line area		
Request type & outcome		(*)
Agency		(*)
Personal/non personal		
TRIM Location		
Practical refusal		
Received on transfer		
Disclosure log		
Status		(*)
Charges notified		
Charges collected		
Request start date	20 May 2025	
Request finalised date		
Disclosure log date		
Access level	Unrestricted	

Fields tagged with (*) are mandatory, ie, a parameter must be set before LEX will allow you to save the matter.

Setting Defaults

Please note that LEX allows you to set defaults parameters. It is strongly recommended that you set defaults for commonly used parameters. This is done by completing the 'add matter' page with the fields you wish to default, then clicking 'save defaults' on the top left. When prompted, select that you wish to apply a rolling date. **Default recommendations are in gold.**

When setting up a new matter, the fields should be completed as follows:

Field	Data to enter
Applicant	Name of applicant (with organisation in brackets if applicable) <i>Example: Joan Smith (Unions Australia)</i> <i>Mark Gooblah (Office of the Hon Bob Bobbo MP)</i>

Decision Maker	Name of Decision Maker (DM) <i>Record the full name of DM as appears in Outlook/Teams, with the correct spelling.</i>
Action Officer	Name of Action Officer (AO) <i>Record the full name of AO as appears in Outlook/Teams, with the correct spelling.</i>
FOI Officer	Drop down to the relevant FOI officer the matter is allocated to. <i>If there isn't one allocated yet, select the FOI Managers name.</i>
FOI Supervisor	Drop down to the relevant second counsel officer for the request. If unsure, put your direct supervisor. Recommend set default to EL2 of FOI Team
Line area	Select the group, division and branch from the drop-down list. If the request sits at group or division level, select the same name again in the next category. <i>Example:</i> <i>branch level: Science & Technology, Science, Quantum</i> <i>division level: Science & Technology, Science, Science</i> <i>group level: Science & Technology, Science & Technology, Science & Technology.</i>
Request type & outcome	Select the type of request from the drop-down list. Leave the outcome as 'ongoing'. <i>Example: FOI request: Ongoing</i> <i>Internal review (decision): Ongoing</i> If the request is a type that doesn't require an outcome be recorded, please select the same category again in the second dropdown <i>Example: Consultation, Consultation</i> <i>IC review, IC review</i> <i>IC complaint, IC complaint</i> Recommend set default as FOI request, Ongoing.
Agency	Select the agency that the FOI request has been made to, from the drop-down list. Either: - Department, or - MO Industry Science and Innovation, or - MO Resources, or - Geoscience. Recommend set default as Department.
Personal information	Select yes if request primarily seeks access to the applicant's own personal info. Otherwise, select no. Recommend set default as No.
Stage	Select '1' Recommend set default as 1

Practical refusal	Leave blank. Refer to the matter update section of this guide as the matter progresses.
Received on transfer	Select received yes or no from the drop-down list to indicate whether the request was received on transfer or not. <i>Recommend set default as No.</i>
Disclosure log	Leave blank. Refer to the closing matter section of this guide.
Status	Select 'Ongoing' for all matters. <i>Recommend set default as Ongoing.</i>
Charges notified	Leave blank. Refer to the matter update section of this guide.
Charges collected	Leave blank. Refer to the matter update section of this guide.
Request start date	Enter the date the request was received by the department <i>The date should be the date that the written request was received in the inbox (or other delivery method) On rare occasions this date may differ from that of the received date, seek guidance from senior staff in that instance.</i>
Request finalised date	Leave blank. Refer to the matter update section of this guide.
Disclosure log date	Leave blank. Refer to the matter update section of this guide.
Access level	Leave blank unless the request is required to be locked down due to sensitivities involved. <i>Example: if there is a conflict of interest with a member of the team that should prevent them from accessing the matter or for employee related matters.</i>

You will also need to enter the following information into the large text fields to the right of the page:

File Status

Notes

Background

Large text fields	
'File Status' tab	This is where status updates should be made. As the first standard words for FOI requests are usually 'Request received from Applicant. Considering request,' it is recommended that you set this line as a default, and then add the relevant date at the front. <i>The FOI standard words must be used to update the matter as it progresses. Refer to the Standard Words Guide.</i>
'Notes' tab	This is a 'free text' field that can be used to record any relevant details to the request. <i>Example: status notes that don't fit into the standard words, scoping notes, etc.</i> <i>Note: <u>do not</u> record the applicants' personal details such as email or phone number.</i>
'Background' tab Summary Scope Priority Disclosure log TRIM	The background tab is prefilled with 4 subcategories. The first 3 must be completed when setting the matter up. The 4th will be completed by the officer who publishes the matter on the disclosure log (if applicable). Summary: add a brief summary of the scope of the request. <i>The description is included in executive reports and should be a succinct summary of the scope, without being too narrow or broad. Correct spelling and grammar are required.</i> Scope: copy and paste the full scope of the request from the outlook email. Note: If the request is an internal review of a primary decision the scope should follow this format: <i>Internal review of decision 300xxx, decision made to <decision on access>. Original Scope Summary: paste the summary from the primary decision.</i> Priority: Write the priority level as agreed by the Head of Division (HoD) or leave blank until the HoD has responded. <i>Priority should be capitalised and without a full stop.</i> Disclosure log: Leave blank. TRIM: write the linked Content manager file reference – Instructions on this step are below. <i>Example: (IEF25/1111)</i> It is recommended that you set these subcategories as defaults, eg: Summary: ----- Scope: ----- Priority: Disclosure Log: TRIM:
Example background	Summary: Correspondence relating to the Australian ice cream industry grant Scope: I request all communications from 2024 to date between staff in the Manufacturing Division relating to the Australian Ice Cream Industry Grant awarded to Gelato Mi Hearto for the revival of their peanut biscoff caramel ripple flavour. Priority: Low

	Disclosure log: TRIM: IEF25/1111
--	---

Once information is entered, select **Save & view** Save your changes?  Save & view

Starting Clock

You will be prompted with a pop-up asking if you would like to start the clock. If your matter is an FOI or internal review request, select yes. You will be taken to a new page. It is crucial that you ensure the clock is started from **the day the request was received**.

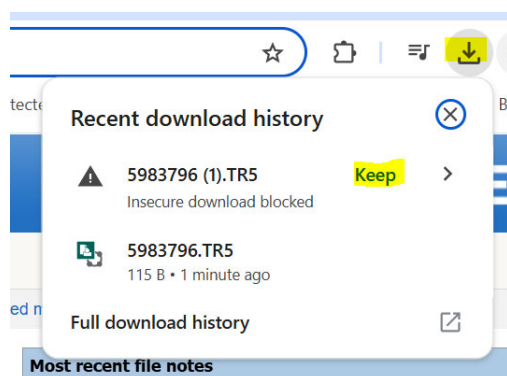
Linking to TRIM

5. Navigate to the 'summary' page of your new request, then click '**HPE Content Manager Folder**:'

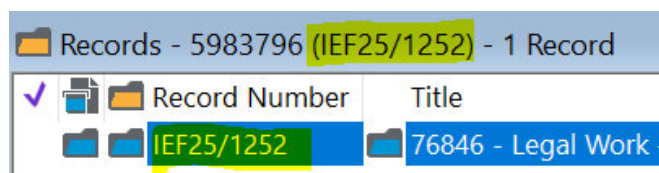
[HPE Content Manager Folder](#)

One of two events will occur:

- I. A pop-up will appear saying that the link is not ready – If this happens, try again at a later time or the following day.
- II. A '.TRS' file will start downloading – If your browser blocks the block the download, click 'keep' in the download status window so that the file will download.



6. Open the file. It will open in Content Manager and display a folder that is linked to your new LEX matter.



7. Write the reference number (format IEFXX/XXXX) into your background tab after 'TRIM:'

8. Locate or create an outlook folder for this new matter. The folder name should be formatted like:

[Applicant's name] XXXXX – IEFXX/XXXX

8. Navigate to the Content Manager tab in Outlook and click 'Check in styles'
9. Click the '+' button to add a new link.

Content Manager**Check In Style**

10. Copy and paste the name of the outlook folder into 'Name'. Set 'Record Type' as 'Electronic Document', and copy and paste the TRIM reference number into the 'Container' field. The remaining options can be left blank, but untick 'show check in Dialogue'
11. Click 'Add' under Link Outlook Folder(s) to Check In Style', then locate the newly created folder in the file structure and select it. If the check in styles menu disappears, press 'alt-tab' on your keyboard to bring it back. Then press ok. Your folder is now linked.

2. Updating LEX during a matter

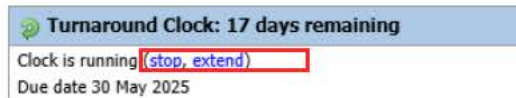
The following matter fields will/may require updating as you progress your matter

Field	Data to enter	Example				
Stage	Change to reflect the stage at which the matter is at. There are 6 stages					
	1 New Request	2 Search + retrieval	3 Charges + consultation	4 Decision making	5 Final decision	6 Finalised
	Intl scoping Priority rating Assign DM	Doc searches Sensitivities Complete DSM	Review docs Consults Charges	FOI prepare decision pack DM reviewing decision pack	Notify MO Send decision	Finalised
Practical refusal	If you initiate a request consultation process under s 24AB, please select '24AB issued' from drop-down.					
Charges notified	Add the amount of the charge issued. <i>Example: if you issued charges of \$150.00, please write '150'</i> <i>Note: The 'charge issued' figure is static and should not be changed if the amount is later reduced. The aim of charge issued field is to capture the original charge issued to the applicant. This is required for OAIC reporting.</i>					
Charges collected	The actual figure of the amount paid . <i>Example: if the applicant pays a deposit of \$75.00, enter '75' in charges collected.</i> <i>Note: The 'charges collected' figure is not static and should be changed to reflect the actual amount of charges collected from the applicant.</i> <i>Example: If the applicant pays the remainder of the \$150 charge, the 'charges collected' figure should be changed to '150'</i> <i>If the department refunds the applicant \$50, the figure should be reduced to '100'.</i> <i>If the department later refunds the applicant all of the money, the figure should be reduced to '0.'</i> <i>See the section about file notes for details on recording charges timeline.</i> <i>This figure is required for OAIC reporting.</i>					
Status	The status should be updated in line with the relevant standard words, at the time that the event occurs. Refer to the FOI standard words guide.					
Background	If the scope of the request is altered during the processing of the request, the revised scope should be recorded <u>above</u> the original scope with the heading ' revised scope: ' <i>Example:</i> Revised scope: all communications from 1 December 2024 to now, between executive staff in the Manufacturing Division relating to the Australian Ice Cream Industry Grant awarded to Gelato Mi Hearto for the revival of their peanut biscoff caramel ripple flavour. Scope: I request all communications from 2024 to now, between staff in the Manufacturing Division relating to the Australian Ice Cream Industry Grant awarded to Gelato Mi Hearto for the revival of their peanut biscoff caramel ripple flavour.					

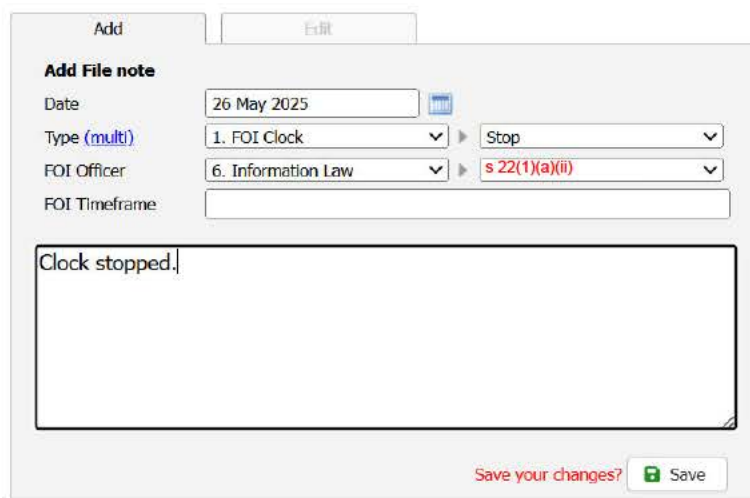
Extending, pausing and restarting clock

If you need to extend, pause, or restart the FOI clock during the matter

1. On the Summary page of your matter, select the relevant link corresponding to your desired action in the Turnaround Clock widget – 'stop' or 'extend':



2. If Stop: Add a comment indicating why the clock was stopped.
Eg: 'Clock stopped. Charges'
'Clock stopped. 24ab'



3. If extend: Select the relevant reason from the pop-up list:

Extend timeframe			
s15(6)	Consult third parties	Will add 30 days	
s15(8)	Consult third parties	Will add 30 days	
s15AA	Agreement with applicant	Enter days manually	
s15AB	Complex or voluminous (can seek more than once)	Enter days manually	
s15AC	Further time to process deemed refusals (only available once)	Enter days manually	
s51DA	Further time for deemed amendment/annotation (only available once)	Enter days manually	
s54D	Further time to process deemed internal review (only available once)	Enter days manually	
Other	Other reason	Enter days manually	

Once selected, add the relevant number of days the time is extended in to the 'FOI timeframe' field and click 'save.' The additional days will then be added to the calculated due date displayed on the summary page.

Add
Edit

Add File note

Date
26 May 2025

Type (multi)
1. FOI Clock
Extend Timeframe

FOI Officer
6. Information Law
s 22(1)(a)(ii)

FOI Timeframe
10

Time extended. Reason: s15AA

Save your changes?
Save

LEX due date calculator

Please note that LEX automatically accounts for weekends and national public holidays when calculating the due date, and will push the due date to the next working day if it falls on a weekend or public holiday.

It is good practice to check the new due date in LEX before providing it to the applicant, by extending the timeframe by the proposed number of days, checking the date given by LEX, and then deleting that file note.

If calculating the date manually, ensure you are counting from the day the request was received, not the current due date, as this date may have been pushed out for a weekend or public holiday. Eg:

- Request received Thursday 1 May 2025.
- 30 days after that date is Saturday, 31 May 2025, so the due date will be pushed to the next working day, which is Monday 2 June 2025.
- If a 10-day extension is then calculated as 10 days after 2 June, this will be incorrect as it doesn't account for the 2 added weekend days – eg 12 June 2025
- The correct method of calculating is by adding counting 40 days (30 days + 10 day eot) from the date of receipt (1 May 2025) – 10 June 2025.

It is not recommended that dates are manually calculated – It is better to only rely on the LEX calculator, with the only caveat being that it does not account for local public holidays.

3. Closing a matter in LEX

Updating the details

Using the below table, update the main details page.

Field	Data to enter
Request type & outcome	Select the outcome from the drop-down list. For primary FOIs, the outcomes are: • Full access – <i>No redactions applied to the documents released.</i> • Part access – s 22 only – <i>Only s 22 redactions were applied to the documents released.</i> • Part access – Exemptions used – <i>documents contained exempt information (including a combination of exemptions and irrelevant material redacted under s 22)</i> • Refused – Fully exempt – <i>The documents were not released because they were exempt in full.</i> • Refused – Nil docs – <i>s 24A decision (documents cannot be found or do not exist)</i> • Refused – Practical refusal decision – <i>s 24 refusal (diversion of resources/unclear)</i> • Withdrawn – agreement from applicant – <i>The applicant agreed in writing to withdraw the request.</i> • Withdrawn – (charges) – <i>The request was taken to be withdrawn after the applicant failed to respond to the notice of charges (after the specified time)</i> • Withdrawn – (24AB) – <i>The request was taken to be withdrawn after the applicant failed to respond to the 24AB consultation notice.</i> • Transferred – <i>The request was transferred to another agency.</i>
Stage	Select 'Finalised'
Practical refusal	If you initiated the 24AB consultation process, please select the relevant outcome: • Subsequently processed – <i>applicant successfully removed the practical refusal reason, and the matter progressed to a decision on disclosure.</i> • Not subsequently processed (refused) – <i>The applicant failed to remove the practical refusal reason, and the request was refused under 24 (practical refusal)</i> • Not subsequently processed (withdrawn) – <i>The request was withdrawn, either by agreement from the applicant or by operation of the Act.</i>

Disclosure log	Select the decision regarding the publication of the documents, from the drop-down list: - Decision to publish - Decision not to publish – <i>for use where documents were released to the applicant, but a decision was made not to publish as the documents contained business and/or personal information.</i> - No documents released
Status	Select 'closed' from the drop-down list.
Charges collected	Update the 'charges collected' figure to reflect the actual amount collected. <i>Refer to updating charges in the 'updating a LEX matter' in this guide.</i>
Request finalised date	Add the date the request was finalised. This is the date that: - The decision was sent/notified, or - The request was transferred or withdrawn, or - The charges or consultation period expired without receiving a response. <i>The date must accurately reflect the actual date one of the above events occurred. This data is reported to the OAIC.</i>
Disclosure log date	Enter the date that disclosure log publication was made (if applicable) <i>This is the date that the documents were published on the disclosure log. If this has not yet occurred, or is irrelevant, leave blank.</i> <i>The officer who publishes the documents will update LEX as part of their actions.</i>
Status	Record the outcome and finalisation of the matter using standard words. Refer to the FOI standard words guide.
Background	Add the disclosure log URL after 'Disclosure log:' <i>Example: Disclosure log: https://www.industry.gov.au/sites/default/files/2025-05/disclosure-log-2025-030-76795M.pdf</i>

Adding exemption file notes

When closing a matter in LEX, you are also required to record any exemptions used within the file notes. This information is reported to the OAIC and must be an accurate record of the outcome in each request.

- Select 'File notes' from the top ribbon within the matter File notes (2)
- In the 'Add' section to the right to add a new file note
 - Date:** can be left at the pre-filled current date if you are recording this on the date the matter was finalised. If not, select the appropriate date.
 - Type:** select '2. Exemptions' and then the relevant exemption used, then click 'save'
 - Note - s22 does not need to be recorded.
 - If more than one exemption was used, add a separate file note for each exemption.

- Once all exemptions are recorded in the file notes section, the matter is complete in LEX.

Example of file notes:

Add

Edit

Add File note

Date

13 May 2025

Date file note

Type

2. Exemptions

33

Add relevant exemption

Matter Owner

6. Information Law

Prefilled with your details

FOI Timeframe

Save

Saved notes

Date	Type	Matter Owner
13 May 2025	47C	
13 May 2025	34	
12 May 2025	FOI Clock - Stop	
24 Apr 2025	FOI Clock - Start	

Document Control

Version	Written by	Endorsed by	Change	Date
V1.1	s 22(1)(a)(ii)		Creation	19/5/25



FOI LEX Standard Words

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About these guidelines

These guidelines have been developed to provide consistent standard words for the purposes of:

- Executive reporting (regular and ad hoc reporting)
- LEX record keeping
- Reporting to OALC (eg. Responses to requests for information, IC submissions, and s15AB applications).

Instructions

Use the below standard words to complete the 'status' free text field in LEX for FOI.

- Each standard word entry should be preceded by the date the action occurred.

- The LEX shortcut for the current date is

0

 +

~

- The shortcuts below will automatically insert the relevant status update. To use them, enter the relevant number/letter and press

' ~

- If more than one action occurred on a single date, continue updating on the same line, with each update separated by a full stop.
- Dates must be formatted as '1 Jan 2025'
- Each entry must start with a capital letter and end with a full stop. Avoid acronyms/abbreviations that are not defined. Be mindful that the status is being provided to the executives.
- If an entry is inserted that has a deadline, for example, 'Commenced search and retrieval process, response due 1 Jan 2025,' and the deadline has passed, ensure the corresponding entry recording the outcome is inserted.
- Notes in *orange italics* are intended as guidance, words in *green highlight* where an option needs to be selected or input added.

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Status – FOI LEX standard words	
Receiving request	
Insert date	0
No action taken as at the date of the report	Shortcut
Request received from applicant.	1
Considering request. <i>Please delete this entry once there is a subsequent new entry in the status.</i>	2
Provide assistance to MO as requested. <i>This entry should be entered for MO requests set as the date of the request.</i>	3
Notifying new request and conducting searches	
Notified line area of new request.	4
Commenced search and retrieval process, response due DATE <i>This entry is inputted once DSM provided to line area.</i>	5
Line area returned completed search minute and identified x documents (x pages).	6
Line area created new document in response to request.	7
FOI Team reviewing documents. <i>This entry should only be entered directly after another entry, not as a stand-alone line with a date.</i>	8
Acknowledgement	
Acknowledged request.	9
Transfer	
Accepted transfer of request in [full/part] from [AGENCY].	a
Sought transfer of request in [full/part] to [AGENCY], response due DATE.	A
[AGENCY] agreed to accept transfer of request in [full/part]. Notified applicant of transfer and provided relevant material to [AGENCY]. Finalised.	B
[AGENCY] refused to accept transfer.	Nil

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Revision of scope	
Informal consultation	
Sought clarification of scope of request from applicant, response due DATE.	b
Applicant responded to request to clarify scope. Agreed/Did not agree to scope clarification.	c
Sought applicant's agreement to limit scope of request, response due DATE.	C
Applicant responded to request to limit scope. Agreed/Did not agree to limit scope.	D
Applicant did not respond to request to limit scope of request.	d
Section 24AB (request consultation process)	
Commenced request consultation process to provide applicant an opportunity to revise scope of request to enable it to be processed, request consultation process expires DATE.	e
Applicant submitted a revised scope of request.	E
Applicant agreed to extend request consultation period by X days.	Nil
Applicant confirmed they did not wish to revise scope of request.	Nil
Applicant did not respond during request consultation period, request treated as withdrawn by operation of the FOI Act. Finalised.	F
Charges	
Preliminary estimate of charges	
Notified applicant of charges for processing request (\$X). Payment of charges due DATE.	f
Payment of charges	
Received payment of deposit of charges (\$X).	g
Received payment of charges in full (\$X).	G
Received payment of balance of charges (\$X).	Nil

FOI LEX Standard Words

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Applicant did not pay the charges within time, request treated as withdrawn by operation of the FOI Act. Finalised.	H
Refund provided to applicant (\$X).	Nil
Charges contention	
Applicant contended charges should be reduced or not imposed on financial hardship/public interest grounds. Decision on charges due DATE.	h
Charges decision	
Draft charges decision provided to decision maker for review, response due DATE.	i
Decision made to impose charges. Payment of charges due DATE.	l
Decision made to reduce charges to \$X. Payment of charges due DATE.	J
Decision made not to impose charges.	j
Charges decision – Internal review	
Applicant sought internal review of charges. Internal review decision on charges due DATE.	Nil
Draft internal review of charges decision provided to decision maker for review, response due DATE.	Nil
Internal Review decision made to impose charges. Payment of charges due DATE.	Nil
Internal Review decision made to reduce charges to \$X. Payment of charges due DATE.	Nil
Internal Review decision made not to impose charges.	Nil
Applicant did not pay the charges within time, request treated as withdrawn by operation of the FOI Act. Finalised.	Nil
Consultations	
All consultations	
Notified applicant time period for processing request extended by 30 days for consultation.	K
Commenced consultation with THIRD PARTY/AGENCY, response due DATE.	L
Received consultation response from THIRD PARTY/AGENCY - objection/no objection to release of documents.	I

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Consultation requests received from another agency	
Consultation request received from [full name of agency and abbreviation]. <i>Eg Department of Climate Change, Energy, Environment and Water (DCCEEW)</i>	m
Notified line area/MO of new consultation request, response due DATE.	M
Response provided to [abbreviated agency] - no further exemptions requested/further exemptions requested: [insert relevant exemptions].	N
Extension of time	
Extension of time	
Sought the applicant's agreement to an extension of time to process request, response due DATE.	n
Applicant agreed to X day extension of time. Notified OAIC of the extension of time.	o
Applicant did not agree to/respond to request for extension of time.	O
Application made to OAIC for an extension of time to process request.	P
OAIC granted a X day extension of time.	p
OAIC refused application for an extension of time.	q
Deemed decision	
Decision not made during statutory timeframe, deemed as decision to refuse access in full. Continuing to process request in accordance with obligations under FOI Act.	Nil
Statement of reasons given to applicant.	Nil
Decision or outcome	
Decision making	
Draft decision provided to decision maker for review and signature, response due DATE.	Q

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MO notified of decision prior to release.	R
Withdrawn	
Request withdrawn by applicant. Finalised.	r
Request taken to have been withdrawn by operations of FOI Act. Finalised.	s
Request withdrawn by applicant. Documents released through administrative access. Finalised.	S
Decision to grant access in full to all documents	
Decision made to grant access in part to X documents (X pages). Exemptions claimed: [insert relevant exemptions].	T
Decision to grant access in part to all documents	
Decision made to grant access in part to X documents (X pages). Exemptions claimed: [insert relevant exemptions].	t
Decision to refuse access in full to all documents	
Decision made to refuse access in full to X documents. Exemptions claimed: [insert relevant exemptions].	u
Nil documents	
Decision made to refuse request (documents cannot be found/do not exist). Finalised.	U
Practical refusal	
Decision made to refuse access (substantial and unreasonable diversion of the department's resources/insufficient information). Finalised.	V
Release of documents	
Documents released to applicant.	v
Documents not released to applicant, pending payment of charges.	Nil
Documents released to applicant following payment of charges.	Nil

FOI LEX Standard Words

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Documents not released to applicant, pending expiration of third-party review rights. Third party/ies (Name of third party/ies) notified of decision and review rights.	Nil
Documents released to applicant following expiration of third-party review rights	Nil
Disclosure log	
Publication	
Disclosure log publication made. Finalised.	W
Disclosure log publication made in part (exception: personal information and/or business information). Finalised.	W
Disclosure log publication not required (exception: personal information and/or business information). Finalised.	X

Internal and External Review
Internal review
Applicant sought internal review of decision to [DECISION] in FOI xxxxx. Internal review decision due DATE. - <i>Example: 01/01/25 Applicant sought internal review of decision to refuse access to documents in FOI xxxxx. Internal review decision due 30/01/25.</i> Provided options to decision maker to seek preliminary view on internal review decision. Draft internal review decision provided to decision maker for review, response due DATE. Internal review decision made to [DECISION]. Finalised. - <i>Example: 30/01/25 Internal review decision made to release additional material in part. Exemptions claimed: s 47E(d)- operations of Agency, s 47F – personal privacy. Finalised.</i>
IC review

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OAIC notified the department of applicant's application for IC review of department's decision to [DECISION].

- *Example: 01/07/24 OAIC notified the department of applicant's application for IC review of department's decision to affirm decision to refuse access in full to 3 documents. Exemptions claimed: s 47F personal privacy, s 47E(d) certain operations of an agency.*

OAIC made preliminary inquiries, response due DATE.

Notified line area of new IC review.

OAIC notified the department that OAIC will undertake IC review.

OAIC issued directions, response due DATE.

OAIC requested submissions/response/documents/information, response due DATE.

Engaged [LEGAL SERVICE PROVIDER].

Engaged with, or made reasonable attempts to engage with, the applicant for the purpose of genuinely attempting to resolve or narrow the issues in dispute.

Notified [THIRD PARTY/AGENCY] of IC review.

Sought instructions from line area on [TOPIC], response due DATE.

Department provided submissions/response/documents/information to OAIC, awaiting OAIC response.

Department made revised decision to [DECISION]. Awaiting OAIC response.

OAIC notified the department of OAIC's intention to make a decision to not undertake IC review.

OAIC made decision to not undertake IC review. Finalised.

OAIC notified the department of IC decision to [DECISION].

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Notified line area of IC decision.

IC decision summary provided to line area for consideration.

Line area agreed to implement decision, implementation of IC review due DATE.

Implementation of IC decision or appeal to AAT due DATE.

Department implemented IC decision. Finalised.

Department made application to AAT for appeal of IC decision. Finalised.

AAT review

AAT notified the department of applicant's application for AAT review of department decision to [DECISION]. Tribunal documents due DATE. Case conference listed for DATE.

AAT confirmed receipt of the department's application to appeal IC decision.

Tribunal documents filed.

AAT notified the department of hearing date for DATE.

AAT made decision to [DECISION].

Implemented AAT decision. Finalised.

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Exemptions

Exemption	Standard words
Section 33	damage to national security damage to defence damage to international relations
Section 34	Cabinet documents
Section 37	law enforcement and public safety
Section 38	secrecy provisions
Section 42	legal professional privilege
Section 45	breach of confidence
Section 46	contempt of court of Parliament
Section 47	trade secrets commercially valuable information
Conditional Exemptions	
Section 47B	damage to Commonwealth-State relations
Section 47C	deliberative processes

FOI LEX Standard Words

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Section 47D	financial or property interests of the Commonwealth
Section 47E	operations of an agency
Section 47F	personal privacy
Section 47G	business information
Section 47J	economy
Section 22	Irrelevant material

Tips for standard words

- Input the status of requests in LEX as a running status (chronologically) of the actions taken in a request.
- Where standard words include “s”, specify whether the noun should be singular or plural. Remove the brackets once specified. E.g. “the document” or “2 documents”
- For Minister office (MO) requests, replace “department” with “MO”, as applicable.
- For internal review and IC review matters, use standard words relating to initial requests where applicable.

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