

Introduction

The Western Australian *Freedom of Information Act 1992* (the FOI Act) gives you the right to apply for access to documents held by State Public Sector agencies which include: Government Departments; Local Authorities; Statutory Authorities; and Ministers.

Agencies are required to assist the public obtain access to documents at the lowest reasonable cost, and to ensure that personal information held is accurate, complete, up to date and not misleading. Your right to apply is not affected by any reasons you have for wishing to obtain access, or the agency's belief as to what your reasons are for applying.

How do I make an FOI application?

The application has to:

- ⌘ be in writing;
- ⌘ give enough detail to identify the requested documents; or if you apply for amendment of personal information about yourself you must provide details to show how or why the agency's records are inaccurate, incomplete, out of date or misleading;
- ⌘ give an Australian address, and where possible, a contact telephone number; and
- ⌘ be lodged at the office of the agency that you expect would hold the documents, together with any application fee payable.

Each agency has a person who will coordinate the processing of your application. In the larger organisations, this function is titled "FOI Coordinator".

What kind of information can I request?

The FOI Act gives every person the right to seek access to documents held by government agencies. Documents may comprise written material, plans and drawings, photographs, tape recordings, films, videotapes or information stored in a computerised form.

Are there any costs involved?

No fees or charges apply for **personal information** or amendment of personal information about yourself (eg your medical records, details of employment etc).

Applications for other documents (ie which are **non-personal** in nature) require a **\$30 application fee** to be paid when the application is lodged, and there may be other charges imposed by the agency as follows:

- ⌘ \$30 per hour of staff time (or *pro rata* for part of an hour) for dealing with an application (agencies cannot charge for locating the documents within the scope of your request);
- ⌘ \$30 per hour (or *pro rata* for part of an hour) for supervision by staff when access is given to view documents or the time taken by staff to prepare a transcript from a tape or make photocopies;
- ⌘ 20 cents per photocopy; and
- ⌘ actual costs incurred by the agency for preparing a copy of a tape, film or computerised information, or arranging delivery, packaging and postage of documents.

Estimate of charges

You can ask the agency for an estimate of charges when lodging an application. If the charges are likely to exceed \$25 the agency **must** give you an estimate of charges and ask whether you want to proceed with the application.

You must notify the agency (within 30 days) of your intention to proceed. In some instances the agency may request an advance deposit.

If you are financially disadvantaged, advise the agency as a 25% reduction of charges may apply.

In what way can I minimise or remove the need for charges?

The FOI Act requires the agency to help you with your application if you are having difficulty defining the documents you are seeking. The agency may describe the kinds of documents and records kept to help you narrow the scope of your application. By reducing the scope of your application it will reduce the work for the agency and the cost to you. It will also ensure that the work involved for the agency is reasonable. An agency may refuse to deal with a large request.

How long does the agency have to respond to my request?

Once a government agency receives a valid application from you, the agency has a maximum of 45 calendar days to make a decision. On average the time taken by agencies is less than this permitted period.

Will the agency give me access to all the documents I asked for?

Some documents which protect essential public interests may be exempt. Personal information about other people or the commercial or business affairs of others are among those documents which may not be released.

An edited copy of a document may be provided to you if it contains some information considered to be exempt.

How will I be advised of the agency's decision?

The agency must give you a written **notice of decision**. If you are refused access or only given partial access to the documents you applied for, the agency has to give details and reasons to explain why particular documents or parts of documents cannot be released.

If you have requested amendment to your personal information the agency must also give you written notice of its decision.

Can I ask for a review of the agency's decision?

Yes. You will be advised of your rights of internal and external review in the decision sent to you by the agency. There are no charges for the conduct of reviews.

An **Internal Review** by the agency is available in the first instance. You must apply in writing and give details of the decision that you want to have reviewed. You may ask for a review if:

- ⌘ the agency refuses to deal with your application;

- ⌘ you have been given access to an edited copy of a document;
- ⌘ you have been refused access to a document;
- ⌘ you have been given access to a document but access is deferred to a later date;
- ⌘ the documents contain medical or psychiatric information about you and the agency will not give you access to them, or will only give the information to a medical practitioner nominated by you;
- ⌘ you consider the charges imposed or the requirement to pay a deposit to be unreasonable;
- ⌘ you are a third party mentioned in the documents but have not been consulted; or you have been consulted but disagree with a decision to release the documents to the applicant (see separate brochure *Third Parties and Their Rights*); or
- ⌘ the agency does not agree to amend your personal information, or make a notation or attachment to the document in a form that satisfies you.

Is there a time limit for lodging an application for Internal Review?

You must apply within 30 days of receiving the notice of decision from the agency. The principal officer of the agency may allow you to lodge your application after the 30 days have elapsed.

What will happen with my request for an Internal Review?

Another officer who is not subordinate to the person who made the original decision will conduct the review.

Within 15 days the agency will advise you in writing of the outcome of the review, as well

as your right to lodge a complaint with the Information Commissioner for an **External Review** of the agency's decision.

How do I apply for External Review?

The application can be made in a letter or you can complete a form available from the Office of the Information Commissioner.

You must give an address to which notices can be sent; give particulars of the decision (or part thereof) you want reviewed; attach a copy of that decision; and lodge the application at the Office of the Information Commissioner.

The Information Commissioner is appointed by the Governor as an independent statutory officer who is responsible directly to Parliament. Therefore complaints lodged with the Information Commissioner are subject to impartial review based on the merits of each case and the relevant provisions of the FOI Act.

What sort of decisions can the Information Commissioner review?

Any of the decisions made by the agency about your application.

What time limits apply to seeking review by the Information Commissioner?

If you are the applicant, you must apply within 60 days from being given the decision.

If you are a third party affected by the decision of the agency you have 30 days.

The Information Commissioner may allow a complaint to be lodged after these periods have elapsed.

How does the Information Commissioner review my complaint?

The Information Commissioner will decide the best way of dealing with your complaint. Usually this will involve inspecting the documents concerned. Staff assisting the Information Commissioner will confer with you, the agency and any other relevant parties.

If the Information Commissioner wants further information, this may be required in written form but you will be given every opportunity to present your case. If the dispute cannot be resolved by conciliation the Information Commissioner will publish a decision finalising the matter, which is to be regarded as a decision of the agency.

Further Information

If you have any general enquiries about the FOI process, contact our office.

Telephone: (08) 9220 7888

Facsimile: (08) 9325 2152

Country callers: 1800 621 244 (toll free)

Email: info@foi.wa.gov.au

Internet: www.foi.wa.gov.au

Postal address: PO Box Z5386

St George's Terrace Perth 6831

This explanation is a general guide and cannot be substituted for the FOI Act and Regulations.



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INFORMATION COMMISSIONER

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**GUIDELINES FOR
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