



Producing documents to the Information Commissioner

External review guide for agencies

Your agency's obligations when producing documents

The main function of the Information Commissioner (**the Commissioner**) is to review decisions made by agencies in respect of access applications for documents and applications for amendment of personal information. Applications for external review to the Commissioner are referred to as 'complaints'.

After receiving a complaint, it is the usual practice for the Commissioner to write to the Principal Officer of the agency advising of the complaint. That letter will also usually require the agency to produce certain documents (**the required documents**) to the Commissioner within a specified time period.

Failure to comply is an offence under the *Freedom of Information Act 1992* (**the FOI Act**).

The Commissioner may grant an extension of time in exceptional circumstances and only after a written request has been received prior to the due date.

What documents will your agency be required to produce?

The precise document production requirements may vary from case to case. Therefore, it is important that you read the letter from the Commissioner carefully and follow the instructions. The following is a general guide to the Commissioner's usual requirements.

Disputed documents

The Commissioner will generally only require the production of a complete copy of any documents in dispute. However, in lieu of requiring the production of original documents, the Commissioner will also require the agency to complete a Statement of Certification that states that the documents produced are true and complete copies of the original documents.

If your agency's decision was to give access to an edited copy of a document, the agency will be required to clearly highlight the deleted information so that it remains visible to the Commissioner.

Where multiple exemptions are claimed for information in a document, the agency will be required to clearly differentiate the information that is subject to each of the exemption claims.

All documents should be clearly identified by reference to the description given in the agency's notices of decision.

Where there are numerous documents, a separate schedule which describes each document may be required.

The agency's FOI file

The Commissioner will usually require the agency to produce a complete copy of its FOI file maintained in respect of the application. The term 'FOI file' means all relevant documents that together record how the agency dealt with the application. Such documents will include:

- the application made to the agency;
- the initial notice of decision;
- the application for internal review;
- the internal review notice of decision;
- any record of communications with:
 - the applicant;
 - third parties;
 - other external parties; and
 - internal officers; and
- any draft documents.

How do I produce documents to the Commissioner?

The Commissioner will generally expect that the required documents are:

- delivered electronically;
- in a format that is readily accessible by the Commissioner; and
- organised in a manner that assists with the Commissioner's inquiries.

The Commissioner's office can assist you with suggestions for an efficient and appropriately secure method to produce the required documents to the Commissioner by the specified date.

If you are unable to produce an electronic version of the required documents within the specified time frame, contact the Commissioner's office to discuss how the documents will be produced. The onus is on the agency to contact the Commissioner's office to discuss the particular circumstances of the matter.

After the documents have been delivered, you will be given a receipt for your records.

If you are unsure of the requirements regarding producing the required documents, please contact the Commissioner's office well before the due date by email to info@oic.wa.gov.au.

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