



Steps for access applicants

1. Contact the agency

Before making an FOI access application, check with the agency about whether you can obtain the documents without the need for an application.

The best approach is to first ask the agency that holds the documents you are seeking whether the documents are publicly available or can be made available to you without a formal access application. It is often effective to talk to someone in the agency.

Many agencies have policies about documents that can be given out without the need for an FOI access application ([section 3\(3\)](#)).

If the documents are not provided to you, or the agency asks you to formally apply under the FOI Act, you will need to lodge an access application.

If you are not sure which agency holds the documents you want, contact the agency you think should hold them. Most agencies have a nominated FOI Coordinator who can assist you.

The following links may assist you to contact the relevant agency:

[State government departments and agencies](#)

[Ministers' offices](#)

[Local governments](#)

[WA Police](#)

[WA Department of Health](#)

2. Make an access application under the FOI Act

If required, make an access application under the FOI Act directly to the agency that holds the documents.

Under [section 12](#) of the FOI Act your application must:

- be in writing;

No special form is required – a letter will do. The agency may have an application form that you can use if you wish.

- give enough information to identify the documents you are seeking;

To identify the documents in your application, describe the documents you seek as precisely as possible. It may help to check the agency's Information Statement, which contains a list of the types of documents held by that agency. It should be on the agency's website. The agency's FOI Co-ordinator can also assist you. Agencies are obliged to assist you to make an application that complies with the requirements of the

FOI Act ([section 11](#)). If your application is unclear, the agency may contact you to clarify what documents you are seeking. It is in your interest to help the agency be clear about what you are looking for. Remember, you are asking for documents. An application that simply asks a question is not valid under the FOI Act. If the work involved in dealing with your application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency may refuse to deal with it in certain circumstances ([section 20](#)). This is another reason to be as clear and targeted as possible in your access application.

- give an Australian address for notices to be sent; and

If possible, include your telephone number/fax number/email address in addition to your postal address as this will help the agency to contact you if necessary, to assist in your application being dealt with efficiently.

- be lodged at the agency with the appropriate fee.

No application fee or charges apply if you are seeking personal information that is just about you. If your application is limited to personal information that is just about you, the agency may delete all other information from the documents that is not personal information just about you (for example, the names of anyone else appearing in the documents). If you are seeking information that is not just about you (defined as 'non-personal information'), the application fee is \$30.

([Schedule 1 to the Regulations](#))

Note: For access to documents held by the Commonwealth Government, go to the [Office of the Australian Information Commissioner](#)

3. Talk to the agency

The agency may contact you to clarify the documents you are seeking, to try to reduce the scope of your access application or to seek additional time to deal with your access application. Meaningful dialogue is in everyone's interests. It may assist you to get the documents you are really seeking and help the agency to deal with your application efficiently.

If you need the documents by a certain date for some specific purpose, you can ask the agency to provide you with a decision on access within a shorter period than the maximum 45 days allowed by the FOI Act. The agency is not required to reduce the time but it may be willing to do so.

If you and the agency are unable to agree on a shorter period, you can ask the Information Commissioner to reduce the time allowed to the agency to deal with the access application under the FOI Act ([section 13\(4\)](#)).

4. Consider any charges and respond

If your access application includes a request for information that is not only about you (defined as 'non-personal information'), the agency may impose charges and require

that you pay a deposit to deal with your access application (section [16](#) and [18](#)). Any charges are separate from the required application fee.

You may ask for an estimate of charges when you make your access application. In any event, the agency must notify you if the charges are likely to exceed \$25 and it will ask if you want to proceed with the application ([section 17](#)). You must respond to the notice about charges and advise the agency of your intention to proceed within 30 days after being given the notice. If you do not, you will be taken to have withdrawn your access application ([section 19](#)).

In some instances, the agency may advise that you are required to pay a deposit. If you do not pay the deposit within 30 days after being given the notice, you will be taken to have withdrawn your access application. You can seek review of an agency's decision to impose a charge or require a deposit that you think is unreasonable.

5. Consider the agency's decision

The agency is required to give you written notice of its decision about your application as soon as practicable but in any event within 45 days after receiving a valid application – unless you have mutually agreed to extend the time to deal with your application, or the Information Commissioner has approved another period ([section 13](#)). The agency's decision may be to:

- give access to the requested documents in full;
- give access to edited copies of the requested documents;
- refuse access to the requested documents – this includes refusing access on the basis that the documents cannot be found or do not exist ([section 26](#));
- defer giving access to the requested documents (in certain circumstances ([section 25](#)));
- give access to your medical information through a suitably qualified medical practitioner in certain circumstances ([section 28](#) and [regulation 7](#)); or
- impose a charge.

The agency's notice of decision must include details of your rights to have the decision reviewed.

6. Internal review

If you disagree with a decision made by an agency, you can ask for an internal review of the decision by the agency ([section 39](#)). There are no charges for this.

You must apply in writing within 30 days after being given the agency's written notice of decision ([section 40](#)).

The internal review must be conducted by an officer who is not subordinate to the person who made the original decision ([section 41](#)).

The agency must advise you in writing of the outcome of the review within 15 days after it is lodged ([section 43](#)).

Internal review is not available if the original decision-maker was the principal officer of the agency or a Minister. In that case, you can apply directly to the Information Commissioner for external review of the agency's decision.

7. External review

After internal review, if you still disagree with the agency's decision, you can lodge a complaint with the Information Commissioner seeking external review of the decision ([section 65](#)). A complaint is also referred to as an application for external review.

You must apply in writing within 60 days after being given notice of the agency's internal review decision ([section 66](#)).

Note: If you are a third party who objects to disclosure of your information then you must apply within 30 days after being given notice of the agency's internal review decision.

Your complaint must include a copy of the agency's internal review decision ([section 66](#) and [regulation 8](#)). If the initial decision was made by the agency's principal officer or a Minister, include a copy of the initial notice of decision (as there is no avenue for internal review).

8. What about delays?

If an agency does not give you a decision within the timeframes allowed under the FOI Act, you may be able to seek review of a 'deemed decision'. For more information, see our publication – *What if an agency delays making a decision?* - available on our website at <https://www.oic.wa.gov.au/en-au/FTP016>.

If you have any general enquiries about the FOI process, please see our website or contact our office.

Note: This Information Sheet is intended as a general guide only and should not be viewed as legal advice. The Information Commissioner considers each complaint on its merits and according to the relevant circumstances.

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