



Freedom of Information Business Rules

Purpose

1. These rules have been developed to:
 - ensure staff are aware of Defence's obligations under the *Freedom of Information Act 1982* (Cth) ([FOI Act](#))
 - set out the structure of FOI processing at Defence
 - provide guidance for staff who are involved in the processing of an FOI request.
2. Defence must also consider [the guidelines](#) issued by the Office of the Australian Information Commissioner (OAIC) when administering functions and powers under the FOI Act.

Freedom of Information (FOI)

3. The FOI Act provides a legally enforceable right of access, subject to certain exemptions, to documents of most Commonwealth agencies (including Defence), and official documents of Australian Government Ministers. The FOI Act also requires agencies to publish specified categories of information and provides for the amendment or annotation of personal records held by government. Defence must have regard to the guidelines issued by the Information Commissioner when administering functions or powers under the FOI Act.
4. Applicants who make a request to access a document can seek review of a decision issued by Defence. Decisions can be reviewed internally, and/or by the Office of the Australian Information Commissioner (OAIC). Decisions may also be reviewed by the Administrative Review Tribunal (ART).
5. Defence's FOI performance and compliance is subject to external scrutiny, by the regulator, the OAIC, the ART, the Parliament, media and the broader community.
6. The FOI Act requires Defence to acknowledge receipt of a request within 14 calendar days, and provide a notice of decision to an applicant within 30 calendar days of receipt of a valid request. In certain circumstances, the FOI Act provides for extensions to these deadlines.

FOI Decision Making

7. FOI decisions can only be made by an authorised person. The Secretary of Defence has delegated their decision-making authority by instrument to personnel who successfully complete the requisite training to become an Accredited Decision Makers (ADM).
8. Unless otherwise authorised:
 - non-personal information requests are made by SES band 1 / 1-star ADMs; and
 - personal information requests may be made by EL2 / O6 level ADMs.

Administrative Access Arrangements

9. Defence may consider [administrative access arrangements](#),¹ with an applicant's consent, as an option to release information outside the requirements of the FOI Act.

¹ Defence – Accessing information : [Accessing information](#) | [About](#) | [Defence](#)
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10. Administrative access arrangements are not appropriate where the documents in question contain sensitive material that would require redaction under the FOI Act prior to disclosure.

FOI Processing – Staff Guidance

11. All staff are required to assist Defence to comply with its FOI Act obligations. This can include:
- provision of advice on whether the terms of a request are clear (validity of requests)
 - identification of an appropriate ADM, based on the subject of a request
 - identification of relevant record holdings and conducting searches for documents subject to the terms of the request
 - identification of internal partners or stakeholders on documents subject to release, and managing consultation with those partners
 - provision of advice to the FOI team of external agencies or stakeholders who should be consulted on the documents subject to release
 - assisting FOI Case Managers with information on a document's subject matter and context to ensure the correct assessment of exempt material
 - responding to emails from the FOI team with the requested information by the requested due date
 - ensuring Group/Service SES are informed on the progress of FOI requests and aware of any issues
 - ensuring applicants are informed of progress as appropriate.
12. Where large volumes of material are identified, it may be appropriate to engage with the applicant, or to undertake formal consultation, to avoid a practical refusal decision. This may include practical suggestions or recommendations to revise the FOI request.
13. Defence supports trauma informed responses when processing FOI requests. The Defence FOI team will assist Groups and Services in determining appropriate actions on a case-by-case basis, and will carefully manage communications with vulnerable applicants.

Phases of an FOI Request

14. Defence uses a phased approach to coordinate and manage the work involved in processing FOI requests to ensure :

Phase 1 (Week 1-2)	Registration	Confirm validity of request Complete acknowledgement to FOI applicant Identify relevant Group or Service, assign ADM and Case Manager
Phase 2 (Week 2-3)	Search and retrieval	Document searches to be conducted, documents to be checked for relevancy Consider scoping meeting with FOI Case Manager, including to consider if an extension of time is required, and how and when to utilise the available extensions of time under ss15AA, 15AB, and 15AC of the FOI Act Identify stakeholders for consultation

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Phase 3 (Week 2-3)	Assessment and consultation	Consultations undertaken and finalised Proposed redactions and draft decision prepared
Phase 4 (Week 3-4)	Finalising	Final checks undertaken by FOI Case Managers Notifications to stakeholders as required, including senior officers and relevant Ministers Document package and decision finalised by ADM Outcome advised to applicant

15. Defence aims to complete FOI phases in accordance with statutory timeframes, however this may be impacted by scoping tasks, unique complexities of the matter, public holidays and stand down periods.
16. Certain activities may pause or extend the statutory timefram applicable to the FOI request.

Assistance with FOI

17. FOI is necessarily consultative and all processing and decision-making occurs in collaboration with Groups and Services across the department, including decision makers and, where appropriate, external third-party stakeholders.
18. Defence's specialist FOI Case Managers will advise ADMs of timeframes, legal requirements and other FOI processing considerations regularly throughout the process.

Contacts

Freedom of Information Governance and Classified Records Review Directorate
Freedom of Information Case Management and Decision Support Directorate
Ministerial and Executive Coordination and Communication Division
Email: FOI@defence.gov.au

Freedom of Information Review (Internal and External Review Support)
Ministerial and Executive Coordination and Communication Division
Email: FOIreview@defence.gov.au

Resources

[Freedom of Information Internet Page](#)

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to advance Australia's security and prosperity
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