

Australian Privacy Principle 12: Access to personal information

APP 12 provides individuals with a right to access personal information about them held by an APP entity, subject to certain exceptions. These exceptions, or reasons for refusing to provide an individual access to personal information about them, are different for agencies and organisations; this information only covers the limitations that can be applied by an agency.


Requests for access to personal information: Guide for decision makers (Aug 2015)

Complaint Resolution has developed the document **Requests for access to personal information: Guide for decision makers** to assist Defence personnel in responding to a request for access made under APP 12.

This document is available in  [pdf](#) or [Word](#) format.

What do people have a right to access?

APP 12 only gives an individual a right to access personal information about themselves.

(See  [Important terms](#) page re personal information)


A request for personal information about other people does not fall within the scope of APP 12; however, sometimes personal information about one person may also be personal information about another person. This is referred to as 'joint information'.





Example: A marriage certificate shows that the husband is married to his wife and that the wife is married to the husband.

If a person is making a request for joint information, the request will still fall within the scope of APP 12 and the relevant exceptions will need to be considered.

Any other information that is not personal information is outside of the scope of APP 12 and a request for access to that information needs to be considered in accordance with normal administrative procedures.

How access can be requested?

Unlike the  [Freedom of Information Act 1982](#), a request for personal information under APP 12 does not have to be made in writing or in any specific form.

The  [Defence Privacy Policy](#) details the process via which a person may obtain copies of personal information about them held by Defence. More specific information for current and former Defence members and Defence APS employees about how to request your personal information can be found at  <http://www.defence.gov.au/foi/>. Additional information about the best place to make a request is provided in the request tree (view in  [pdf](#) format, view in  [Word](#) format).

Responding to a request for personal information

APP 12 establishes requirements for responding to a request for personal information. Once a request has been received, an APP entity has 30 days in which to respond to the request. This means Defence must either


make a decision on the request within 30 days or must advise the individual why the decision cannot be made within 30 days, the reasons for the delay and the when the individual can expect the decision to be made.

In many cases, a decision can be made on the spot, for example: a person requests a copy of their PMKeyS record. This could be provided to the person almost immediately and requires little consideration about whether the information should be provided. However, there may be more complex circumstances that require greater consideration of the nature of the personal information and whether there is a reason for not providing it to the individual.

Does the information have to be provided?

In accordance with APP 12, an individual has a right to access personal information about them that is held by an agency. Agencies may however decide not to provide access to the personal information in certain circumstances. These are where the agency is authorised to refuse access by or under:

- the *Freedom of Information Act 1982*, or
- any other Act of the Commonwealth that provides for access by persons to documents.

If access to personal information is going to be refused, most commonly it will be due to an exception that authorises the refusal of access under the *Freedom of Information Act 1982*. The *Freedom of Information Act 1982* provides a number of exceptions, some of which are conditional. Information about applying the FOI exceptions can be found in the Office of the Australian Information commissioner's  [FOI Guidelines](#) .

Who should make decisions under APP 12?

Decisions should generally be made by an EL1/O5(E) unless providing access to personal information is one of the main functions or activities of the area within Defence, for example, the Defence Archive Centre, where decisions can be made in accordance with normal operating procedures.

Decisions should be provided in writing and explain the reason for not providing access to any personal information requested and of review rights.

Caution: If access to personal information about the individual making the request is going to be refused on the basis of an exception under the *Freedom of Information Act 1982*, care should be taken to ensure that the decision cannot be construed as a decision under that Act.

Guidelines and tools will be developed to assist decision makers in making a decision under APP 12.

Verifying an individual's identity

An essential step in providing access to personal information includes verifying the identity of the individual making the request. That means that decision makers must be satisfied that a request for personal information under APP 12 is made by the individual concerned, or by another person who is authorised to make a request on their behalf, for example, as a legal guardian or authorised agent.

Areas of Defence that are contacted by an individual requesting access to their personal information must verify the individual's identity before granting access to the information. The steps appropriate to verify an individual's identity will depend on the circumstances. The minimum amount of personal information needed to establish an individual's identity should be sought. In a telephone contact it may be adequate to request information that can be checked against records held by Defence, such as a date of birth or address. In other circumstances, where possible, the information verifying the identity should be sighted.

Providing access to information other than personal information

Where a request for access to personal information also includes a request for information that is not personal information, decisions to release that non-personal information can be made in accordance with normal administrative arrangements. It is not always necessary for the information to be provided under the provisions of the *Freedom of Information Act 1982*.