

Department of Human Services

Freedom of Information

Procedure Manual

May 2019



Table of Contents

PART 1: OVERVIEW.....	5
Purpose	5
The Spirit of the FOI Act	5
The Philosophy	5
The Objects of the FOI Act.....	5
Definitions in this Manual	6
List of Attachments.....	6
PART 2: FOI Day to Day Processing	7
Stage 1 - Initial Processing.....	7
Overview	7
Administration.....	7
Documents falling within Section 12(1)(b) of the FOI Act.....	10
Determining the validity of the FOI Request.....	10
Taking reasonable steps to assist an applicant	11
Dealing with matters that are not valid	11
Date of Lodgement.....	13
Time Frames.....	13
Time Extension with Agreement from the Applicant.....	13
Suspending Processing Time	13
Deemed decision.....	14
Timeframe Summary.....	14
Acknowledging the Request.....	14
Interpreting Scope.....	15
Revision of Scope	15
Section 16 Transfers.....	16
Access to employment/personnel records	17
Stage 2 – Search and Retrieval of Documents	19
Contact with the line area	19
Significant requests – Initial Processing and Notifications.....	19
Significant Requests – Decision Making and Briefing.....	19
Updating the Weekly Executive FOI Report	20
Serious Non Compliance (SNC)	21
Child Support.....	21
FOI applicant with a Personalised Service (PS) Officer.....	21
FOI requests not identified as significant.....	22
Assessment Services.....	22
Assessment Services – JCA and ESAt reports	22
Disability and Carers – Disability Medical Assessments (DMA) reports.....	23
FOI SPOC Minutes	23
Time Estimate Minute	23
Document Search Minute	24
Time frames for FOI time estimate and document search Minute.....	24
Template Search Minute location	24
FOI minutes available via LEX.....	24
FOI minutes as stationery items only.....	24
Email details	24
Return of Search Minutes	24
Obligation to produce information stored in an electronic form	25
CRAM reports.....	25
Practical Refusal Reason – S 24AB process	25
Starting the S 24AB consultation process	27
During the consultation process	27
End of the consultation process.....	28

Preliminary Assessment of Charges and Reconsideration of Charges	28
Preparing a reconsideration of charges decision	30
Making a final decision on charges	30
Stage 3 – Third Party Consultation	31
Third Party Authority.....	31
Undertaking Third Party Consultations	31
When to consult	31
Protecting the privacy of the FOI applicant.....	32
LEX coding for consultation	32
Providing documents for the consultation.....	32
Consultation response received	32
Third Party Objections to release	32
Third party Review Rights	33
Courtesy Consultations with Commonwealth government departments or agencies	33
Cabinet Documents.....	33
Stage 4 – Making the Decision	35
Decision	35
Stakeholder escalation	35
Preparing the decision	35
Notifying a line area before release	36
Making redactions Using Adobe	36
Redaction in No Fill Colour	37
Staff details.....	37
Quality Assurance – FOI Team	38
Stage 5 – Notifying the Decision	39
Content of Statements of Reasons for Decisions	39
Verification of Identity	39
Privacy checks	39
Mandatory Privacy Check.....	39
Sending personal information by email	40
Sending emails externally.....	40
Disclosure Log	40
Notifying Line Areas of Finalisation	40
Internal Review Process	41
Acknowledgment	41
Dealing with Requests outside the FOI Act	41
Data Management	41
Resources	42
<i>PART 3 – Amendment and Annotation requests.....</i>	<i>43</i>
Overview	43
Acknowledgment	43
Transfer of Amendment or Annotation request	43
Time Frames.....	43
Implementing an Amendment Decision.....	43
Implementing an Annotation Decision	44
<i>PART 4: APP 12 – Procedures for FOI Staff.....</i>	<i>46</i>
Registration	46
Processing the Request	46
Written Notice of the Decision.....	46
Complaints	47
<i>PART 5: FOI Statistical Returns.....</i>	<i>48</i>
What are the Quarterly and Annual Statistics?.....	48
Important Dates	48
Quarterly Statistics	48
Annual Statistics	48
Roles and Responsibilities	48

FOI Stats Officer 49

Attachments 50

Attachment A – FOI Checklists 50

Attachment B – FOI Decision Tree 53

53

Attachment C – Naming Convention for FOI e-File 54

Attachment D – Quality Assurance Guide 56

Attachment E – Request for Psychological reports 59

Attachment F - Decision Tree FOI and CSA secrecy provisions 60

Attachment G - S 24AB Consultation Process - Assisting an Applicant 61

Attachment H - LEX database Key Phrases..... 63

Attachment I - FOI Registration Decision Tree 66

PART 1: OVERVIEW

Purpose

The purpose of this Procedure Manual (the Manual) is to provide staff in the FOI team with guidance on the steps for handling FOI requests within the Department of Human Services. The Manual promotes a consistent approach to the processing of FOI requests by the Employment Law and FOI Branch.

It may be appropriate in certain circumstances, to diverge from the procedures in this Manual. This should only be done following discussions with your Team Leader. It is unacceptable to diverge from the procedures in this Manual if this results in the statutory requirements of the *Freedom of Information Act 1982* (FOI Act) and the OAIC Guidelines not being met.

The Spirit of the FOI Act

When interpreting and/or applying the provisions of the *Freedom of Information Act 1982* (FOI Act) whilst processing FOI applications, staff in the FOI team must seek to uphold the philosophy behind the FOI Act, and promote its objectives as set out at s 3. In doing so, to the extent possible (that is, outside of requirements set by the FOI Act), procedural requirements set out in this Manual should be appropriately adjusted for those applicants who will have difficulty complying with those procedures on reasonable grounds.

The Philosophy

The FOI Act commenced on 1 December 1982. The FOI Act gives every person the legally enforceable right to obtain access to government held documents.

The philosophy underpinning the FOI Act, as gleaned from the FOI Act includes the following:

- information held by the government is a national resource and should be managed in the public interest;
- when government is more open to public scrutiny, it becomes more accountable;
- if people are adequately informed and have access to information, there is likely to be more public participation in the policy-making process and in government itself;
- groups and individuals who are affected by government decisions should know the criteria being used to make those decisions;
- every individual has a right to:
 - know what information is held in government records about her or him personally, subject to certain exemptions to protect essential public interests;
 - inspect files held about or relating to her or him; and
 - have inaccurate material concerning an individual held on file or in computerised databases corrected.

The Objects of the FOI Act

The objects of the FOI Act are set out in s 3 and FOI officers must have regard to these objects when processing FOI applications and making decisions under the legislation.

The objects of the FOI Act, as set out at s 3, are focussed on promoting a pro-disclosure culture across government and building a strong foundation for openness in government. This focus is aimed at providing the Australian community with a comprehensive right of access to government documents under the FOI Act, which is limited only where there is a stronger public interest in withholding access to documents.

In particular, s 3(2) of the FOI Act provides that the Parliament intends, by the objects set out in that section, to promote Australia's representative democracy by contributing towards the following:

<G:\FOI\Admin\Manuals & Taskcards\FOI Manual\DHS FOI Procedure Manual>

- increasing public participation in Government processes, with a view to promoting better-informed decision-making;
- increasing scrutiny, discussion, comment and review of the Government's activities.

Further, s 3(4) of the FOI Act provides that the Parliament intends that functions and powers given by the FOI Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest possible cost.

Definitions in this Manual

Note: All section numbers are references to sections of the FOI Act.

FOI Team Leader means a Deputy General Counsel or EL 2 in the FOI team.

Significant Request means an FOI request which is

- submitted by a media institution;
- submitted by a Member of Parliament;
- submitted by a member of staff;
- for documents where the content appears to be particularly sensitive to the department or to the Commonwealth;
- for documents that contain sensitive information (such as legal advice; cabinet information);
- for documents where disclosure could have political sensitivities or may lead to media coverage;
- for FOI Disclosure Log documents;
- specifically requesting only staff names; or
- otherwise deemed significant by the relevant General Counsel.

FOI Templates means the FOI LEX letter templates or the templates folder.

List of Attachments

[Attachment A - FOI Checklists](#)

[Attachment B - FOI Decision Tree](#)

[Attachment C - Naming Convention for FOI e-File](#)

[Attachment D - Quality Assurance Guide](#)

[Attachment E - Requests for psychological reports](#)

[Attachment F - Department of Human Services – FOI and CSA secrecy provisions](#)

[Attachment G - S 24AB Consultation Process – Assisting an Applicant](#)

[Attachment H - LEX database Key Phrases](#)

[Attachment I - FOI Registration Decision Tree](#)

PART 2: FOI Day to Day Processing

Stage 1 - Initial Processing

Overview

1. Each new FOI request must be registered in the FOI database and allocated to a decision maker. In certain circumstances a request may also require a separate action officer. Once registered, FOI requests are considered by an FOI Assistant Director and allocated daily or within 24 hours of registration. See details of the registration process at [Attachment I - Registration Decision Tree](#).
2. Decisions may only be made by staff authorised by the Secretary under s 23(1) of the FOI Act. For details of the **Authorisation Instrument** see <https://hsi.dhsstaff.dhs.gov.au/Pages/about/sec.aspx>
3. If an FOI request is deemed **Significant** it must be escalated to a team leader for appropriate allocation considerations and escalation processes commenced.
4. All newly allocated matters must be considered by the FOI officer within 2 working days of receipt to identify the strategy for processing the particular matter. This strategy would include:
 - Checking that the date valid and clock start date are consistent and accurate
 - checking acknowledgement letter has been sent to the applicant
 - scoping the request
 - identifying all stakeholders
 - checking for processing charges
 - considering any other initial processing requirements (see the FOI decision tree at Attachment B)

Important: It is essential we have well maintained files. Ensure the TRIM electronic file and the electronic shared folder are complete, up to date and well labelled. If someone else looks at your file they should be able to easily understand what has happened and where the file is up to.

Administration

5. All matters are registered into the FOI database and this is generally undertaken by the FOI registration team.

Registration stage

6. For every new request (including requests for Internal Review and Information Commissioner Review):
 - (a) Create a new **LEX** record. With the exception of significant matters, ensure you record the appropriate program or line area to which the request relates. Whilst this is generally created by the registration team, FOI officers should check the coding and update as appropriate. Significant matters – the allocated FOI officer will add this field during the scoping stage.
 - (b) Keep clear, concise and up to date file notes in LEX on the progress of the request. This will ensure other staff are able to identify exactly what action has been taken to date on a matter, when a matter is referred for a quality assurance review, or when a matter is re-allocated.
 - (c) Before the acknowledgement letter is sent a Quality Assurance check is to be undertaken to ensure the accuracy of the coding of the valid date, the clock start date and the acknowledgement letter.

- (d) For all personal requests POI and MSP/PS checks are to be undertaken by the registration officer. If POI cannot be confirmed at registration it is the responsibility of the FOI officer to undertake the necessary checks.
- (e) **Create a new Electronic HP Records Manager file.** This is generally requested automatically when a new record is initially created in LEX by selecting the 'E-file' from the main details screen. This generates a request to Records Management. This method can only be utilised at the time the new record is created in LEX. If you later require an FOI file to be created, you must use the normal process to request an electronic HP Records Manager file through Records Management Unit. Alternatively you can send the details through to the FOI positional mailbox for an e-file request to be added to the next day's RMU bulk file request report.
- (f) If you request the e-file from Records Management the TRIM file must have the following details:
 - i. File type: Administrative – electronic file
 - ii. Title: "FREEDOM OF INFORMATION (FOI) REQUEST – [APPLICANT NAME] – [insert descriptor]"
 For example "FREEDOM OF INFORMATION (FOI) REQUEST – SMITH, John, Investigation documents".
 - iii. Function: Information Management
 - iv. Activity: Cases
 - v. Label only: No
 - vi. Caveat: Legal In Confidence
 - vii. Access: FOI & Litigation Branch
- (g) Record the e-file number in the LEX record. There is a specific LEX file note that can be selected for this purpose. In the free text portion of the file note, you can use a short cut key to prepopulate some of this information. In the free text space of the file note type '9' and hit the 'tick' key (located above the 'Tab' key on your keyboard). Edit as appropriate. See [Attachment H – LEX database key phrases](#).
- (h) There is a restricted controlled access group for FOI within HP records management – FOI Team - Restricted Access. This is for storage of FOI requests that are particularly sensitive and may include staff related FOI requests where there is an identified conflict of interest in processing within the team. Access to FOI records within this control group is restricted to FOI Deputy General Counsel and FOI Director. Only FOI officer with the restricted access will be able to see the records in this controlled location. It will be limited to matters that are not accessible by the broader FOI team.
- (i) Create a new **Electronic Folder** for the matter on the relevant shared drive. This is generally created at the registration stage by an FOI registration officer.
 - i. The electronic folder should have appropriate sub folders to clearly identify documents. ([Attachment C](#)). As appropriate these subfolders should include:
 - i. FOI request and applicant consultations
 - ii. Stakeholder consultations
 - iii. Documents within scope of the request
 - iv. Decision letters and final version of documents released
 - ii. Documents in these folders should be appropriately labelled using FOI document naming conventions to assist in identification (see [Attachment C](#)).
- (j) A scanned copy of the FOI request is to initially be placed in the electronic folder on the shared drive. This is generally undertaken at FOI registration point.

Allocation to an FOI officer

- (a) All newly allocated matters must be considered by the FOI officer within 2 working days of receipt to identify the strategy for processing the particular matter. This strategy would include:
 - i. Checking the lodgement date

- ii. Checking that the valid date and clock start date are consistent and accurate
 - iii. checking acknowledgement letter has been sent to the applicant
 - iv. scoping the request
 - v. identifying all stakeholders
 - vi. checking for processing charges
 - vii. considering any other initial processing requirements (see the FOI decision tree at [Attachment B](#))
- (b) Generally FOI officers should start a new **FOI Checklist** ([Attachment A](#)). Alternatively, launch the checklist from LEX and save electronically to the FOI LEX file. This checklist must be kept updated throughout the stages of the FOI process, and retained in HP TRIM file at the end of the matter. FOI officers new to processing, should always use a checklist for each matter.
- (c) Keep clear, concise and up to date file notes in LEX on the progress of the request. The LEX Main Details TAB – Large text box ‘Current status’ must give a brief update on where matter is up to. (Example: S27A consultation sent on 1.1.17, response due on 15.1.17). Up to date LEX records will ensure other staff are able to identify exactly what action has been taken to date on a matter, when a matter is referred for a quality assurance review, or when a matter is re-allocated.
- (d) When appropriate add **LEX Reminders** for key deadlines, including:
- i. Date acknowledgement due
 - ii. Date s 24AB consultation response due
 - iii. Date documents due from line area
 - iv. Date primary decision due
 - v. Date for response to QA of decision due
 - vi. Preliminary estimate of charge due for payment
 - vii. Decision on Charge due
 - viii. Internal Review of Decision on Charge due
 - ix. Consultations response due
 - x. Disclosure Log Determination due
 - xi. Confirm upload of Disclosure Log
 - xii. Internal Review of Primary Decision due
 - xiii. OAIC Review – Submissions due
 - xiv. Finalised - Please set this as a reminder for when your matter is finalised to set the status to ‘Finalised’.
- (e) To ensure the clear and consistent archiving of documents in e-files, naming conventions should be utilised ([Attachment C](#))
- (f) E-files must include any documents and/or correspondence that relate to a request, such as:
- i. Request
 - ii. Revised scope (if any revision is received)
 - iii. File notes of any discussions with line area, applicant or OAIC
 - iv. Acknowledgement letter/email and any evidence of the date sent (e.g. covering email). A PDF version of the letter **must** be retained
 - v. Email to relevant line area or SES contact and their response
 - vi. Returned Document Search Minute including advice from relevant line area or SES contact about sensitivities
 - vii. Preliminary estimate of the charge
 - viii. Notice to applicant extending time frame due to need to undertake third party consultation
 - ix. Correspondence with third parties (consultation letters and responses)
 - x. QA response emails

- xi. Decision (including a Schedule of Documents). A PDF version of the letter must be retained and any other evidence of the date the letter was sent
 - xii. A copy of documents in full; a copy with the red box redaction; and a copy of the documents as released to the applicant (i.e. with any redactions)
 - xiii. Any other important / significant correspondence.
- (g) Prior to the finalisation of the request in LEX, all documents must be transferred from the electronic folder on the shared drive to the appropriate HP Records Manager e-file in a timely manner.
- i. Save a final version of the decision letter
 - ii. Convert to PDF version (this is the evidence of the final version as it can't be edited) – also retaining a word document
 - iii. If an email is sent, retain a copy of the email with attachments as confirmation the email has been sent
 - iv. If a letter is sent via express post, keep the express post tracking code into a LEX file note

Documents falling within Section 12(1)(b) of the FOI Act

7. Section 12(1)(b) states in part:

A person is not entitled to obtain access under this Part to:

- (b) a document that is open to public access, as part of a public register or otherwise, in accordance with another enactment, where that access is subject to a fee or other charge;

- 8. Some FOI requests relate to Proof of Identity (POI) documents, for example requests for birth certificates and marriage certificates.
- 9. While strictly speaking, birth certificates (and other POI documents such as marriage certificates) do fall within section 12(1)(b); where they fall within the scope of a more general request, there is no harm in releasing them back to an applicant. Such an action is both contemplated and consistent with section 3A of the FOI Act.
- 10. Where an applicant requests only their birth certificate, marriage certificate or other document falling within section 12(1)(b) of the FOI Act, section 12(1)(b) of the Act should be applied and the applicant notified that they are not entitled to obtain access to these type of documents under the FOI Act. These type of requests are therefore not considered as a valid access request due to the application of section 12(1)(b). In those circumstances the more appropriate course would be for the applicant to purchase a copy of the document from the relevant register and they should not be entitled to use FOI to circumvent that process.
- 11. A template letter is available through LEX for these type of enquiries.

Determining the validity of the FOI Request

- 12. A valid request must be received through the correct departmental Freedom of Information channels, i.e. email to FOI mailbox, letter sent to the department's central PO Box 7800 or the FOI PO Box 7820 or FOI request submitted at a Customer Service Centre.
- 13. Where a request is sent to another department postal address or email address other than the FOI mailbox as stated on the DHS website, it should be forwarded to the FOI mailbox and will be valid from the date it reaches the FOI mailbox.
- 14. Determine whether the FOI request is valid under s 15. A valid request must:
 - a. be in **writing**;
 - b. state that the request is **an application for the purposes of the FOI Act (s 15(2)(aa))**;

- c. provide **sufficient information concerning the document(s)** to enable the department to identify the document(s); and
 - d. give details of how notices may be sent.
15. Staff in the FOI team must keep in mind that s 15(3) provides that where a person has made an FOI request that does not comply with s 15, it is the duty of the department to take reasonable steps to assist the person to make the request in a manner that complies with s 15. Evidence of this assistance should be noted in the LEX file notes.

Tip if you do not understand the request or cannot ascertain the scope, call the applicant to clarify. If the request is from a journalist contact the line area or media team to see if the request makes sense to them. Speak to the FOI Team Leader if in doubt.

16. The department has a number of administrative access arrangements that allow for the disclosure of information outside the formal FOI process. The requirements under s 15(2)(aa) distinguish an FOI request from a general enquiry, or request that can be dealt with through administrative access. Some examples of administrative access arrangements include:
- Medicare and PBS information for an individual or a family;
 - High level (de-identified) statistical data; and
 - Information available to customers through on line Services.
17. Further details on releasing customer information through administrative access arrangements can be found in the Operational Blueprint guide - Customer requests access to their personal information 104-01010010 and other specific Operational Blueprint guides relating to document types.
18. It should be clear from the request that the applicant's intention was to make an application under the FOI Act. The decision maker should consider all the particular circumstances and file note in the FOI database with information to support the approach taken on the matter.

Taking reasonable steps to assist an applicant

19. FOI officers will generally assist an applicant to make a valid request under the FOI Act, where:
- the enquiry has been directed to the FOI team;
 - the applicant has not specifically indicated that it is an application for the purposes of the FOI Act (or words to that effect); and
 - the requested documents cannot be released outside FOI through normal administrative access arrangements.
20. If the applicant wishes to make an FOI request and it is not valid (i.e. it does not comply with the requirements under s 15), the department is required to take reasonable steps to assist the applicant, including assisting to make a valid FOI request if this is what the applicant wants. Evidence of this assistance should be noted in the LEX file notes.
21. Early contact should be made with the applicant to either assist them to access documents through the administrative access arrangements or make a valid FOI request. Where possible, this initial contact should be by telephone to save time for the applicant and to facilitate discussion on the terms of the request, where relevant. Telephone contact is often helpful in explaining processes and clarifying a request. A Lex file note summarising the outcome of the discussion should be added. An email or letter should be sent to confirm the discussion.

Dealing with matters that are not valid

Cannot identify documents

22. A valid request must provide such information as is reasonably necessary to allow a DHS staff member to identify the document that is requested (s 15(2)(b)).
23. Section 15(2)(b) differs from other formal requirements under s 15, in that a failure to comply with S 15(2)(b) is classified as a 'practical refusal reason' for which a request consultation process is required.
24. Before refusing a request for failing to meet s 15(2)(b), you must undertake a 'request consultation process' under section 24AB.

Coding in the FOI database – cannot identify documents

25. In order to comply with the 'request consultation process', the matter will need to be coded as a valid access request, the lodgement date coded and the clock started. This allows consultation with the applicant under s 24AB (15(2)(b)). The time count is then suspended for the S24AB consultation process. This consultation should occur as quickly as possible after the matter is allocated to the FOI officer.

Not valid for other reasons

26. When a matter is initially registered and is not considered valid, or validity needs further investigation, it is coded into the FOI LEX database as an external enquiry (Request Type – external enquiry). Note the exemption to this is when the matter is not valid under section 15(2)(b) (see Cannot identify documents)
27. For all enquiries, a 10 day clock is commenced to ensure that any work is undertaken within this period to answer the enquiry, liaise with the line area for them to assist the applicant to access documents via administrative access arrangements or assist the applicant to make a valid request. The FOI delegate assigned the matter should include LEX file notes on the action taken during the 10 day time count. Time should be adjusted as appropriate for action being undertaken in the matter, once an initial review has been undertaken.

Not valid – Check Administrative Access Arrangements

28. When assigned an enquiry matter, FOI officers should firstly check reference material, or discuss with the appropriate business area, to see if documents requested are non-continuous and routinely available through normal administrative access arrangements (Arrangements). The applicant should be informed when an enquiry is being moved to an appropriate area for routine processing.
29. If access to the documents, or information, is not available through the Arrangements, then FOI officers should assist an applicant to make a request valid.

FOI LEX coding when enquiry becomes valid

30. If the matter becomes valid, a new access request should be registered into LEX. This can be cloned from the enquiry record and then updated to reflect the new access request. The enquiry record can be finalised by coding a finalised date and also linked as a related request. This will ensure reporting can be completed on the newly valid access request.
31. On occasions, requests for information from some applicants, for example: Public Trustees or advocacy services are referred to the FOI team. The correspondence may state that if the information being requested **cannot** be processed through administrative access arrangements, then the letter should be considered as a request under the FOI Act. These may initially be considered as an enquiry and the FOI officer would work with the line area to check if administrative release is available and the matter referred to that team. If administrative release is not available, then the matter can then be considered as a valid FOI request, by coding a new access request and linking to the related enquiry and processed accordingly.
32. Where the request is vague, such that there is not sufficient information concerning the documents sought to enable the department to identify the document, **and** the applicant could not be contacted; it should still be registered as valid and consultation for a [practical refusal reason](#) should be commenced.

Date of Lodgement

33. FOI requests posted to the department's central address, PO Box 7800 Canberra or posted to the dedicated FOI PO Box 7820, will have a lodgement date as the date of receipt at these addresses. For an FOI request posted to any other address, the lodgement date will be the date the request is received by the FOI team or the FOI legal team.
34. Section 15(2A) of the FOI Act provides as follows:

The request must be sent to the agency or Minister. The request may be sent in any of the following ways:

 - (a) *delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;*
 - (b) *postage by pre-paid post to an address mentioned in paragraph (a);*
 - (c) *sending by electronic communication to an electronic address specified by the agency or Minister.*
35. The department's website provides information on where to post an FOI request.
36. The current white pages online provides the central postal address for the department of PO Box 7800 and Canberra BC ACT 2610 for all service centres. There is no other postal address listed. Accordingly when an FOI request is posted to an address other than Canberra BC Address – PO Box 7800 or the FOI postal address at PO Box 7820 Canberra, then the request is valid only from the date it is sent to the FOI Team. This is on the basis that the FOI request was not sent to the specified address (as required by s 15(2A)(b)).

Time Frames

37. If the request is valid, the department has **30 calendar days** in which to process and to notify an access decision to the applicant. The day a request is received is counted as day 0 (i.e. the following day is counted as day one).
38. The FOI Act requires the department to comply with statutory timeframes for processing FOI requests. In some limited circumstances, the timeframe may be extended, for example, with the written agreement of the applicant or with the approval of the Information Commissioner. **FOI officers should have regard to the matters set out at s 15(5) to s 15(8) and s 15AA, s15AB and s 15AC of the FOI Act, as well as the guidance set out in the FOI Guidelines and agency resources issued by OAIC when considering the timeframes for dealing with a request.**

Time Extension with Agreement from the Applicant

39. Where agreement is reached with the applicant for an extension of time (s 15AA), the applicant must confirm this agreement in writing and notification of this agreement must be provided to the OAIC. A file note should be included in LEX to reflect the written agreement and notification to the OAIC has occurred.
40. The department sends a bulk notification of s 15AA extensions to the OAIC. FOI officers must add the information into the current spreadsheet for bulk notification located at <G:\FOI\OAIC\EOT\15AA EOT>

Suspending Processing Time

41. The 30-day processing period does not include
 - the time that an agency may take in a request consultation process to decide if a practical refusal reason exists (s 24AB(8))

- the time elapsing between an applicant being notified that a charge is payable and either the applicant paying the charge (or a deposit on account of the charge) or the agency varying the decision that a charge is payable (s 31).

42. In summary, the time spent on those matters is to be disregarded in calculating the processing period.

Deemed decision

43. Where the time frame has not been met and extension of time is not available, the matters should nevertheless be processed. Internal review is not available and the appeal rights attachments should be updated. Page one of the decision letter should include some reference to the deemed decision. The following is an example:

A decision in relation to your request was due on [INSERT DATE]. Your request has been deemed to be refused by the department under s 15AC of the FOI Act. However, the department has continued to process your request. The department apologises for this delay.

The department has now made a decision in relation to your request

Timeframe Summary

Day	Event
0	Day valid request received
14	Day acknowledgement is due
30	Day decision is due to be received if no consultation
60	Day decision is due to be received if applicant is notified that third party consultation will be undertaken
Suspension	Clock stops during period charges under consideration; also stops during 24AB consultation period (14 days) E.g.; Stops on day Charge Letter emailed/faxed (or next day if express posted). Restarts on day charge cheque clears (3 days after receipt).

In addition :

- the matter should be escalated to the Team Leader;
- consider contacting the applicant;
- consider approaching the OAIC for an EOT;
- update Lex with a file note explaining the circumstances around the request being deemed

Acknowledging the Request

44. When an FOI request for access to documents is received, an acknowledgement letter must be sent to the applicant within 14 calendar days of receipt of the request (s15 (5)(a)). That acknowledgment should confirm the scope of the applicant's request.

45. In most instances, acknowledgment letters are sent at the registration stage of the FOI process by the FOI registration officers and a file note added into the LEX record to reflect the action taken at registration.

46. FOI officers allocated the matter **must always** check if the acknowledgement has been sent at the registration point. If the acknowledgement has not been sent during registration, the FOI delegate

assigned the matter must complete and send the acknowledgement with the legislated time frames (14 days).

47. An acknowledgement will not generally be sent at registration stage for the following circumstances:
- Significant requests
 - Applicant is a customer on a Managed Service Plan (MSP), or with a Personalised Service (PS) officer. The acknowledgement letter must reflect the department's arrangements for contact with this customer
 - Where there is not sufficient information to allow the acknowledgement to be sent
 - Transfers from another department
 - Matters that involve an access request and amendment request in the one request.
 - Amendment/annotation requests
 - Requests where validity is unclear
 - Internal review requests
 - Information Publication Scheme (IPS) requests

Interpreting Scope

48. When an FOI officer is initially allocated a matter, it is important that the request is fully understood - what documents is the applicant seeking access to? The FOI Act requires that the documents being requested are reasonably identifiable and scoping a request allows a review what specific documents are in scope.
49. The exercise of scoping the request must be undertaken within 24 hours of a matter being initially assigned. A request may be described quite broadly and must be read fairly, being mindful not to take a too narrow or pedantic approach.
50. If there is any doubt about the scope of a FOI request, including ambiguity within the request, early informal consultation must be attempted. This informal consultation can be initially via a telephone call to the applicant followed by an informal email. Any clarified scope should be acknowledged with the applicant and LEX records updated accordingly.
51. As a general guide FOI officers need to undertake a scoping exercise for applicants with very broad requests, e.g. *'my whole file'*, *'everything you have on me'*, *'all my records'*, *'every document about me'* etc.
52. When scoping a request consider talking to the appropriate SPOC before contacting the applicant to informally consult.
53. When undertaking an informal consultation it is preferable to reiterate to the applicant that staff details are considered to be out of scope.
54. When consulting with the applicant, consider if any information/documents being sought can be provided through the department's administrative access arrangements. Coordinating access to these documents may assist the applicant to clarify or revise the formal request.
55. If an officer is unable to identify documents through this informal consultation process a formal consultation with the applicant is required. See Attachment G - – S 24AB Consultation Process – Assisting an Applicant.

Revision of Scope

56. If the applicant wishes to revise the scope at any time, consider the resulting work requirements and specifically how much time is available to meet the statutory time frame. Consider how much the scope has changed, when the scope was changed in relation to the due date and how many

G:\FOI\Admin\Manuals & Taskcards\FOI Manual\DHS FOI Procedure Manual

changes have already been accepted. The applicant may agree to an extension of time to allow the processing of the revised request.

57. Where a FOI Officer initiates a discussion with the applicant about the scope of the request and the applicant has agreed to revise the scope of their request an email should be sent confirming the revision. A template email is available in Outlook.
58. If the revised request would jeopardise meeting statutory timeframes, even with an agreed extension, advise the applicant they will need to submit a new FOI request. You should discuss with the applicant if they wish to withdraw the original request to deal with the revised request and if so this should be confirmed in writing. You should consider sending an email to the applicant to document any discussion and have the applicant respond to this email as confirmation.

Revision of scope when charges issues

59. If a preliminary estimate of the charge has been issued and an applicant wishes to revise the scope, this does not automatically constitute a new request. If the revised scope constitutes a new request, FOI officers should seek the applicant's agreement to withdraw their request and have their revised scope treated as a new request.
60. Where an applicant does not agree to officially withdraw the previous request, it will be deemed withdrawn when the time to pay the preliminary estimate of the charge expires.

Revision during s24AB consultation

61. If a s24AB consultation process has been initiated and the applicant contacts the department to revise the scope of the request, the department must take reasonable steps to assist the applicant to revise the request so the practical refusal reason no longer exists (see [Attachment G – S 24AB Consultation Process - Assisting an Applicant](#)). Taking reasonable steps includes suggesting ways the applicant can revise the request to reduce the volume of documents (e.g. by limiting the time period to which the documents relate; or by nominating specific types of documents they are seeking).
62. Where the contact from the applicant is via telephone the Act still requires a response to the s24AB notice in writing. The clock is restarted upon receipt of the written response.

Section 16 Transfers

Section 16 transfer out

63. Before processing a request you must consider whether part or all of the request needs to be transferred to another Commonwealth agency or department or to the Minister's Office. Consider the following:
 - Does the request relate to a document that you know is not in the possession of the department but would be in the possession of another Commonwealth department?
 - Is the subject matter of the document more closely connected with the functions of another Commonwealth department?
 - Have you conducted some initial searches or consultations to establish the department does not have the document requested or the request would be better dealt with by another department due to the subject matter?
 - Will the other department accept a transfer in part or in whole of the request?
64. All transfers must be managed under the supervision of the FOI Team Leader.

Section 16 transfer requests to DHS

65. A section 16 request from another Commonwealth for DHS to accept a section 16 transfer should be considered at an APS 6 level or above and cleared by an executive level staff member. Before accepting a transfer, consideration must be given to:
 - The lodgement date and time remaining to process the request

- Whether the documents are in the department's possession
- Whether a courtesy consult response is appropriate rather than accepting a transfer. Generally this would only be considered for non-contentious documents.

Access to employment/personnel records

66. Section 15A of the FOI Act provides that an employee (current or former) may not request access to his or her *personnel records* under FOI unless the employee has first sought access to the records under the agency's internal procedures.
67. "**Personnel records**" in relation to an employee or former employee, means those documents containing personal information about him or her that are, or have been, kept by the agency for personnel management purposes.
68. FOI Officers must consult immediately with the relevant branch in the People Services Division to determine if the documents sought can be considered for release under internal procedures. If they can, then s 15A must be considered.
69. In this situation, the applicant (employee or former employee) must be advised that under s 15A of the FOI Act, the applicant may not make an FOI request for access to their personnel records, including job selection documentation, unless they have first sought access under the department's internal procedures.
70. If the applicant still wishes to make an FOI request, they must be informed their request will first be dealt with under the department's internal procedures. The applicant must be notified of the agency's decision about giving access to their personnel records within 30 days of the agency receiving the request.
71. If the applicant is dissatisfied with the outcome of the internal procedures, or has not received a response within 30 days, they can then make an FOI request.
72. When the FOI Team receives an FOI request from an employee (current or former), the FOI Officer must:
 - Consult immediately with the relevant branch in the People Services Division to ensure the documents sought can be considered under internal procedures and identify whether a request for access to personnel records has already been made to the relevant People team. If the documents can be considered under internal procedures and the applicant has not made a request through People Services previously, then s 15A applies.
 - Ensure the matter is registered on the FOI database and marked as **not valid** due to s15A. This provides an audit trail for the request.
 - Contact People Services first with the details of the request and arrange to transfer the request to them to be dealt with under the agency's internal procedures. (It is important at this point that People Services advise if they have internal processes to consider release).
 - Contact the employee and explain the matter is being referred to People Services and cannot be dealt with as an FOI request at this stage.
 - Send a letter to the employee setting out the arrangements under s15A of the FOI Act and informing the applicant who the People Services contact person is.
 - Send an email to People Services and a copy of the letter that was sent to the applicant.

FOI requests sent from department email addresses

73. It is the department's policy that staff members do not use their department email account for their own FOI matters. A staff member sending a FOI request via their department email account are to be asked to provide an alternative email address when making requests under the Freedom of Information Act. This is consistent with the APS Code Conduct regarding the proper use of

Commonwealth resources, as making an FOI request is not related to their employment. It is to be made clear to a staff member making a formal FOI request that that internal email and Lync should not be used for corresponding with the FOI Team regarding their FOI request.

Stage 2 – Search and Retrieval of Documents

Contact with the line area

Significant requests – Initial Processing and Notifications

74. Start a new **FOI Checklist** ([Attachment A](#)). Alternatively, launch the checklist from LEX and save electronically to the FOI LEX file. This checklist must be kept updated throughout the stages of the FOI process, and retained in HP TRIM file at the end of the matter.
75. For significant requests, use the most recent executive phone list to identify the line area and relevant SES Band 1 that should be notified of the new significant FOI request. Call the office of the appropriate stakeholder to inform them of the request and confirm that their branch will be listed as the relevant contact on the FOI Executive Report.
76. All emails regarding significant matters **must** be sent from the [FOI.Legal.Team](#) drafts folder by an EL1/EL2.
77. Prepare the line area notification(s), attaching the request and the document retrieval minute/time estimate minute, addressed to the relevant National Manager(s).
 - Ensure you have attached the most up to date significant matter document search minute/estimate minute – the template is available in the share drive ([G:\GC FOI\2017 - FOI Legal Templates](#)).
 - Ensure you have CC'd the General Counsel and include her/his signature block at the end of the email. Include any other positional inboxes or stakeholders as advised by the SPOC.
 - If more than one line area needs to be consulted, consider whether it is appropriate to prepare one email to multiple areas or multiple emails. This will depend on the circumstances.
78. Refer to the roster for Chief Counsel Notifications to identify which team member is preparing notifications for that week. Provide this team member with a table including the Applicant's name, the scope of their request and the line area contact to be included in the weekly Chief Counsel notifications.
 - Refer to the share drive at [G:\GC FOI\2017\Notification Table Schedule](#) for the roster and information about the process.
79. Prepare a notification to send to the Media Team.
80. From time to time certain Groups in the department will require additional notification of FOI requests that relate to divisions and branches within their group. If necessary, prepare a notification for the relevant Deputy Secretary. These emails are to be sent to the General Counsel, to send to the Chief Counsel to pass onto the relevant stakeholder. At the time of writing notification of matters affecting the Service Delivery Operations Group and the Integrity and Information Group are being prepared.
81. Please see below for more detailed instructions regarding updating LEX for use in the weekly Executive Report.

Significant Requests – Decision Making and Briefing

82. If the matter is Significant, check with the FOI Deputy General Counsel whether it needs to be reported as a significant issue to the Office of Legal Services Coordination (OLSC), and update as appropriate in the LEX record. What is a significant issue for the purpose of reporting the matter to OLSC is set out in Guidance Note No 7 of the Legal Services Directions.
83. Section 24AB notices, charge notices and decisions must be cleared through the QA process prior to being sent. Some matters may need clearance at a higher level, including by the General Counsel or

the Chief Counsel, the Deputy General Counsel will advise FOI decision makers of this on a case-by-case basis.

84. All external correspondence including acknowledgement letters, section 24AB notices, charges notices and decisions must be sent from the FOI.Legal.Team inbox by an EL1/EL2.
85. Ensure the line area is provided with updates at key points of processing the request, including payment of charge, draft primary decision, at the time the decision is made and when documents are released. It may be necessary to set up meetings to discuss the sensitivities in the documents.
86. If documents are being released:
 - Prepare an Executive Communication (Secretary Brief); and
 - Prepare a Ministerial Submission (Minister's Brief); and
 - Ensure you have **two weeks** to complete the briefing process prior to the release of documents.
87. If documents are not being released:
 - Prepare an email notifying the Chief Counsel of the likely decision. She/he will advise about whether further briefing for the Secretary or the Minister is required on a case by case basis.
 - This email is to be sent from the General Counsel to the Chief Counsel.
88. Provide a copy of the redacted documents to the Media team.
89. Notify the line area when the matter has been finalised.

Tip for drafting the SES email - Follow the basic outline in the template, however in some circumstances it will be necessary to amend the email to add extra information about the history of the matter; or add extra contextual material about the subject matter of the request.

Updating the Weekly Executive FOI Report

90. The Executive FOI Report (the Report) is settled every Thursday and distributed by the Chief Counsel's Office, to the Minister's Office, Secretary, and Deputy Secretaries.
91. The Report uses data from FOI LEX based on the field identifying the matter as significant. The report is run from LEX and must be provided to General Counsel by midday on Tuesday of each week. Therefore the updates to your matters in LEX should be made by midday on Monday.
92. The contents of the Report are populated from the information entered in the LEX database, therefore it is very important that your LEX updates are up to date and correct, do not contain spelling or grammatical errors and identify the correct line area as the contact for the report.
93. Some key points for the Report are set out below. However, for a more detailed guide please see relevant emails in the 'General Counsel Standing Instructions' folder in the [FOI.Legal.Team inbox](#).
 - Applicant name – the following convention should be applied 'BLOGGS, Jane (organisation)'
 - Group/Division/Branch – select the branch who is the stakeholder for the request. If there are multiple line areas, list the line area with the most responsibility
 - Current status: a brief summary of where the matter is at. This should **not** include information about SPOC responses other than to note that document retrieval is underway.
94. Make sure to proof read your entries for any typos or grammatical errors.

Serious Non Compliance (SNC)

95. The FOI Officer must contact SNC Operations team to identify a brief customer history (e.g. length of time as a customer etc.), the number of ongoing debts and obtain contact details of the relevant SNC investigator.
96. Where the request is broad and potentially too large to process, the FOI Officer should firstly contact the relevant SNC Investigator to identify the types of documents on the file, the documents already released to the applicant and what could be released formally/informally.
97. The FOI Officer should undertake an informal consultation prior to considering a section 24AB consultation process and contact the applicant to identify how the request could be narrowed. The informal consultation can be made jointly with the relevant SNC Investigator (depending on the circumstances).

Child Support

98. When dealing with child support matters, it is recommended that the FOI officer first contact the Child Support Single Point of Contact (SPOC) to gain a better understanding of the request, the customer's circumstances and any potential issues before sending the Document Search Minute.
99. The SPOC can also help you quickly identify any complex and/or voluminous (section 24AB) issues. It will also allow you to have an informed conversation with the applicant if consulting informally either by phone or email. The informal consultation can be made jointly with an appropriate child support officer (depending on the circumstances).
100. The FOI officers should check with Child Support to identify any incidents of customer aggression. These facts may need to be considered when making an FOI decision on disclosure of documents, particularly where staff names fall within the scope of an FOI request.

FOI applicant with a Personalised Service (PS) Officer

101. Where the applicant is identified as having a PS officer, an acknowledgement letter is not sent at the initial registration stage.
102. The FOI decision maker will send the acknowledgement after the discussion with the PS officer. This allows the PS officer to be informed of the FOI matter before the acknowledgement letter is sent (the letter must still be sent within the 14 day statutory period). It also provides for a discussion as to whether the FOI applicant will be given the FOI officer's contact details in the letter, or if they should direct any FOI enquiries through the PS officer.
103. The FOI Officer must consult with the PS officer to check the contact arrangements to be included in the FOI acknowledgement letter. The PS officer must be kept fully informed at each step in the FOI decision process, including the details of the decision and documents to be released, at least two days prior to the decision being notified to the applicant.
104. Where the request is broad and potentially too large to process, the FOI Officer should discuss the request with the PS officer to obtain some background to the customer and any current issues. The FOI officer and PS officer should also discuss any documents already released to the applicant and what could be released formally/informally.
105. If an FOI Officer is considering entering into informal consultation, the FOI Officer should, at first instance, consult with the PS officer to determine whether an informal consultation would be appropriate. If appropriate in the circumstances, the FOI Officer should undertake an informal consultation prior to considering a section 24AB consultation process and contact the applicant to identify how the request could be narrowed. The informal consultation can generally be made jointly with the relevant PS officer.

FOI requests not identified as significant

106. Refer to the list of FOI Single Point of Contact (SPoC) officers for each division and send appropriate notifications and search minutes. Copy in the Personalised Service officer where appropriate.
107. For all new FOI requests, draft an email for the relevant line area (where sending to an SES officer cc their Executive Assistant), with the appropriate notifications and search minute and an electronic copy of the original FOI request attached.
108. If the scope of the request covers a couple of branches send notifications to each branch identifying which portion of the matter they are to work on. Alternatively request that the one branch coordinate responses from all other stakeholder branches. If you are still unsure of the most appropriate branch, discuss with your line manager. (See the FOI SharePoint page for current list of FOI Single Point of Contact officers).
109. The line area will advise whether they consider the request is a [Significant Request](#) and who the contact officer(s) will be. Where a matter is identified as a Significant during processing, notify the team leader immediately for re-allocation considerations. The reasoning for why the matter was considered significant should then be stated in the SES email.

Assessment Services

110. Where the request is for a range of documents that may also include assessment reports, FOI officers would not need to send a FOI clearance minutes specifically to Assessment Services in the first instant. Other appropriate SPOC will be able to coordinate the retrieval of the assessment reports along with other documents in scope.
111. Generally the information within the assessment reports themselves will provide details that would assist the FOI officer in the decision process. Assessment reports include an indication from the author of the report on the impact of disclosure of the report to the particular recipient.

For example, the Assessment reports will indicate:

- This report does **not contain** any information, which if released to the client, might be prejudicial to his/her health.
Or
- This report **contains** information, which if released to the client, might be prejudicial to his/her health.

When to Consult with Assessment Services

112. In some limited circumstances, a current opinion may be required before the FOI officer can make a decision on the release of reports containing medical information. In these circumstances, the FOI officer should seek a further clearance from Assessment Services and provide some background as to why this further clearance is required.

For example, an assessment report retrieved from the Smart Centre, may have been completed several years ago and identifies mental health issues. The FOI officer may like a more current opinion on whether disclosure may be harmful to the applicant.

Assessment Services branch has a number of allied health professionals who may be able to provide informed advice. FOI officers should ensure that the referral to Assessment Services only occurs in limited circumstances where there is an identified need for assistance.

Assessment Services – JCA and ESAt reports

113. Assessment Services are the appropriate single point of contact (SPOC) where the request is only for a specific assessment report/s. These reports include Job Capacity Assessment report/s (JCA), Employment Services Assessment (ESAt) and Disability Medical Assessment (DMA). Note that Assessment Services are the line are for DMA reports where the Disability Support Pension claim was lodged **prior** to 1 July 2015 only.

114. FOI officers should be using the abridged email search minute for Assessment Services. This is located in the stationery folder of both FOI team outlook accounts.

Disability and Carers – Disability Medical Assessments (DMA) reports

115. Disability and Carers are the appropriate single point of contact (SPOC) where the request is only for a specific DMA report and the report is lodged **after** 30 June 2015.
116. Note that Assessment Services are the line area for DMA reports only where the Disability Support Pension claim was lodged **prior** to 1 July 2015 only.
117. FOI officers should be using the abridged *email* search minute for Disability and Carers – DMA only. This is located in the stationery folder of both FOI team outlook accounts.

FOI SPOC Minutes

118. Everyone in the department shares responsibility in the FOI process. Some people outside of the FOI team play a particular role in making sure that the department complies with the FOI Act. These people are called Single Point of Contact (SPOC) Officers. SPOC Officers coordinate the search and retrieval stage of the FOI process.
119. SPOC Officers do two main things:
- coordinate comprehensive searches for documents within the scope of a request; and
 - assist the FOI team identify sensitivities and parts of documents that should not be released to the applicant. This will include the identification of any customer aggression incidents
120. The decision in response to an FOI request is heavily influenced by the searches and advice provided by the SPOC.
121. The FOI team may request that a Document Search Minute or a Time Estimate Minute be completed by a SPOC Officer.
122. If consideration is being given to issuing a notice of intention to refuse based on the volume of documents falling within the scope of the request, the line area may not need to retrieve all of the documents and instead must initially provide information about the estimated time that would be required to process the request including time necessary to retrieve documents. This will form the basis for the decision-maker to consider whether a Practical Refusal Reason exists and whether a consultation period should be commenced with the applicant (see section headed [Practical Refusal Reason](#)).

Paper files

123. As retrieval of paper files may take time to retrieve, it is wise for the line area to consider requesting these (if potentially in scope) at an early stage to be prepared for a revised request.

Time Estimate Minute

124. A Time Estimate Minute is a request for the SPOC to provide an estimate of the number of documents within the scope of a request and any potential sensitivities contained within the documents. This is used as a guide:
- collect the information necessary to estimate any potential charges
 - determine the size and resources required to process the request.
125. Where an FOI officer is considering that the request is too big to process, the SPOC should be asked to provide a 10% sample of documents. See S24AB process for further information.

Document Search Minute

126. A Document Search Minute is sent by the FOI team to SPOC to commence document retrieval and to identify any sensitivities arising out of the disclosure of the documents.

Time frames for FOI time estimate and document search Minute

127. To ensure that timeframes can be met, the Time Estimate and Document Search Minutes should be sent within 2 days of a case being allocated. SPOC officers are asked to respond within 5 business days.

Template Search Minute location

128. Some standard Search Minutes are located in the LEX database and are launched from the individual record. A standard covering email is located in the stationery item in the FOI positional mailboxes. Some specialist search minutes are email format only and are stationery items in the FOI positional mailboxes.

FOI minutes available via LEX

129. Search Minutes and Time Estimate Minutes only available as attachment in LEX are:

- The Standard search minute
- The Time estimate minute
- Child Support time estimate minute
- Medicare search minute
- Significant document search minute
- SNC Document search minute

Covering emails

130. Send these FOI minutes with a covering email located in the stationery items of the FOI positional emails. SNC requests and significant requests have a specific covering email.

FOI minutes as stationery items only

131. An abridged Search Minutes is available for Assessment Services in email format as a stationery item (not in LEX).

Email details

132. Ensure you update the subject line of the email to include the LEX number and the due date of the response and add your signature block to the email. Save a copy of the email in the FOI folder for the particular case. Update the LEX file notes and status to reflect action taken.
133. A copy of the FOI request should generally be included with the FOI minutes going to the SPOC.

Tip – Ensure that the terms of the Search Minute cover only those documents which were created on or prior to the date that the FOI request was received.

Return of Search Minutes

134. On return of the search minute from the line area:
- ensure that the line area has responded to the question regarding concerns or sensitivities;

G:\FOI\Admin\Manuals & Taskcards\FOI Manual\DHS FOI Procedure Manual

- note any comments about the potential release of the documents including information about any concerns or sensitivities. (This information will form the basis for the decision-maker to consider possible exemptions);
- consider what consultation with third parties and with other government departments is required; and
- Ensure that the line area has responded to the question regarding any incidents of customer aggression as this may be a factor to consider when making an FOI decision, particularly when the scope of the request includes staff names.

135. The line area should retain all original documents and provide the relevant FOI team an electronic copy of the documents in scope.

Obligation to produce information stored in an electronic form

136. The FOI Act provides a right to access documents held by an agency that already exist. There is no general legal obligation to reduce information to written form (for example, to provide answers to questions), or to “create” a document in response to an FOI request.

137. That said, where:

- no written documents containing the requested information exist; but
- the information is stored electronically or in some other format; and
- it does not appear from the request that the applicant wishes to be provided with a computer tape or disk,

The department must look at whether a document could be created by using resources ordinarily available to the department (FOI Act, section 17). Examples of where this obligation can arise include a sound recording, database, computer or other device (such as a microfiche etc.), where the department could produce a written document containing the information in a discrete form.

138. The exception to this obligation is where producing a written document would substantially and unreasonably divert the resources of the department from its other operations.

CRAM reports

139. In situations where customers expressly request CRAM reports, the department is likely to be obliged to create these reports under section 17 of the FOI Act, unless it would unreasonably divert the resources of the department.

140. Where a request for a CRAM report is received, consultation with the applicant should occur. A referral for a privacy complaint may be more appropriate mechanism where the applicant has raised concerns about unauthorised access to records.

141. Consultation with the customer’s Service Zone may also be required to ensure that any incidents of customer aggression, or other sensitivities, are considered prior to making the FOI decision.

Practical Refusal Reason – S 24AB process

142. A practical refusal reason (see s 24AA of the FOI Act) exists in relation to an FOI request if:

- (a) the work involved in processing the request would substantially and unreasonably divert the resources of the department, and/or
- (b) the document cannot be identified from the request because the applicant has not provided sufficient information concerning the document(s) to enable the department to identify the document(s)

143. A request may be described quite broadly and must be read fairly, being mindful not to take a too narrow or pedantic approach.

144. If the FOI request is unclear, early informal consultation must be attempted. Any clarified scope should be acknowledged with the applicant and LEX records updated accordingly.

145. When undertaking an informal consultation it is preferable to reiterate to the applicant that staff details are considered to be out of scope.
146. As a general guide FOI officers need to undertake a scoping exercise for applicants with very broad requests, e.g. 'my whole file', 'everything you have on me', 'all my records', 'every document about me' etc.

Note – Early contact with the applicant, through telephone or email, should always be attempted before issuing a formal notice under the s24AB consultation process.

See [Attachment G – S 24AB Consultation Process - Assisting an Applicant](#)

147. Where a **Practical Refusal Reason** arises you should firstly attempt informal consultation with the applicant to clarify the request. This should be within a reasonable period of time after being allocated the matter (in some cases it may be possible to do so within the first two days of being allocated the case). Informal consultation should preferably be by telephone to save time and to facilitate discussion on the terms of the request. Telephone contact is often more helpful in clarifying the request to remove the **Practical Refusal Reason** however you should take into account any MSP or PS arrangements.
148. FOI officers should consider if there is an opportunity to facilitate informal access to some information during the initial FOI request stage. This may involve consultation with the stakeholder line area or coordination through the FOI team's administrative access processing team.
149. If a portion of the request can be identified, it is reasonable to process that portion of the request. In some instances, this may result in a consultation process for the portion of the request that cannot be identified. Where a verbal informal discussion leads to a revised request, it is best practice to confirm the conversation and the revised scope in writing.

Process

150. The FOI officer will send an email, or letter, to the FOI applicant notifying them that they have revised the scope of the request based on their discussion and setting out the terms of the revised scope.

Email address available

- Where an email confirmation is sent, the applicant should be asked to contact the FOI officer within 2 days if the revised scope is incorrect. This short time frame will limit the days spent awaiting a response.

No email address

- Where there is no email address, a notification of the revised scope must be sent via post.

151. In both these cases, the FOI officer should discuss the process with the applicant to explain the correspondence that will be sent, and the action that is required by them.
152. If it is not possible to complete informal consultation with the applicant, the request must continue to be processed. Where a **Practical Refusal Reason** still exists, which includes where an applicant has not responded to the informal consultation within a reasonable period of time, initiate a formal request consultation process under s 24AB. A reasonable period of time may be determined by taking into account the time remaining to process the request. The effect of this consultation is to 'stop the clock' on the processing time permitted under the FOI Act. See [Attachment G – S 24AB Consultation Process – Assisting an Applicant](#).
153. A request consultation process can be initiated if there is evidence that the volume of documents falling within the scope of the request would result in a substantial and unreasonable diversion of resources of the department if the application was processed.
154. There will be instances where the identification of the documents sought is not clear. For example where the customer seeks "my whole file" but **does not identify a programme**, we cannot be certain which particular records the customer is seeking. In this instance a consultation process

should be initiated firstly on the basis that the documents cannot be identified from the request because the applicant has not provided sufficient information concerning the documents to enable the department to identify them.

155. Once the customer responds to this consultation and identifies the documents sought, there may be instances where there is evidence that the volume of documents falling within the scope of the request would result in a substantial and unreasonable diversion of resources of the department if the application was processed. In this case you may undertake a further consultation indicating your intention to refuse, on that basis.
156. As a guide, requests that may require more than 40 hours to process may require an FOI officer to consider whether the amount of processing would lead to a substantial and unreasonable diversion of the department's resources. **NOTE: This is a guide only, as each request must be considered in light of the relevant circumstances at the time the request is made. FOI officers should have regard to the matters set out at s 24AA(2) of the FOI Act and the guidance set out in the FOI Guidelines issued by OAIC when considering if a practical refusal reason exists in a particular case.**
157. As a guide, to calculate the processing time, use the AGS Calculator. Then consider the circumstances surrounding the FOI request (for example a customer request that includes correspondence may be large in terms of volume but straight forward in terms of processing). Adjust the processing time in accordance with the particulars of the request as well as the type of documents. Note this on the copy of the calculator saved for the particular request.
158. Each matter must be reviewed on a case by case basis. In appropriate cases, requests may continue to be processed, even where the processing time has been estimated to exceed 40 hours. When considering if a particular FOI request would 'unreasonably divert' the resources of the department from other operations, subject to s 24AA(3), FOI officers should undertake a balancing exercise with regard to the relevant surrounding circumstances. Such a balancing exercise can include consideration of the volume of material that may form part of an individual's case file, and whether disclosure of the documents will cast light on a decision that has a significant impact on an applicant.
159. In appropriate cases a large request may be processed. Discuss large requests with your line manager. Clearance from a team leader must be sought when considering processing a matter that may be in excess of 40 hours.
160. If a practical refusal reason exists, you must undertake a *request consultation process* (see s24AB of the FOI Act). **FOI officers should have regard to the matters set out at s 24AB of the FOI Act, the guidance set out in the FOI Guidelines issued by OAIC and the guidance at Attachment I of this Manual when undertaking the request consultation process.**

Starting the S 24AB consultation process

161. Prepare a written notice to the applicant (launch from the FOI LEX database template letters). This must be carefully edited to the circumstances. Under this Notice the applicant has 14 days in which the applicant can contact the department. The applicant must respond in writing to revise the request, withdraw the request or indicate they do not wish to revise the request.

During the consultation process

162. The template s 24AB letter, notifies the applicant that the time frame for responding to the consultation process may be extended with their agreement (s 24AB (5)) where circumstances warrant an extension. With the applicant's agreement (s 24AB (5)), time can be extended to allow for a mail reply, or allow a third party with authority to respond in writing on the applicant's behalf.
163. If the applicant contacts the FOI officer during the consultation period, the officer must take reasonable steps to help them review the request so that the Practical Refusal Reason no longer exists (s 24AB(3)).

164. The applicant typically does not know details of the type of documents held by the department, how they are held and how to describe the documents. In consulting with the applicant, the FOI officer should aim to assist the applicant to frame a request that can be processed.
165. Where a verbal discussion leads to a revised request, the applicant is to be reminded that they are required to provide written notice of the revised request (section 24AB(6)) within the consultation period. If the applicant is not able to email the revised request, then check the response date. Consider if agreement to an extension of the consultation period is appropriate to allow the applicant more time to post the revised request.

End of the consultation process

166. If a written notice of a revised request is received, continue to process in line with the FOI Act.
167. If a verbal request to withdraw is received, send a confirmation of the withdrawal in writing (see template drive).
168. The request will be deemed withdrawn if the applicant does not contact the department during the consultation period. Where this occurs there is no need to send a confirmation letter to the applicant.
169. **Sampling:** Where a decision is being considered under s 24 on the grounds that it is too big to process, to inform decision making you will require the single point of contact officer to send through a sample of documents. As a guide, you should be sampling about 10% of the total documents i.e. where you have 600 documents on your estimate search minute, a sample of 60 documents needs to be provided from the line area.

Preliminary Assessment of Charges and Reconsideration of Charges

170. **Requests by applicants for their own personal information or from third parties acting on behalf of another person are free. Where the applicant requests other information, including information of another person, or non-personal information, charges should be considered for the portion of their request that is not for their own personal information.**
171. Once the Search Minute and the documents are received from the line area, estimate the charge (see s 29 of the FOI Act). The charge can be estimated using the charge calculator and the figures provided by the line area in Attachment 'A' of the document search minute. However, do not just rely on the information summary sheet provided by the line area. Have a look at the documents to assess the appropriate charge estimate. For example:
 - Check the number of pages and documents;
 - Consider the line area's estimate regarding the number of pages considered sensitive and likely to be exempted;
 - Consider the line area's estimate of the amount of time for search and retrieval;
 - Ensure appropriate limits are applied, e.g. if part of the documents caught by the request are the applicant's own personal information, the charge should be reduced proportionally as access to a person's personal information is free.

Tip for calculating charge estimate

The best approach is to print the calculator with its standard costs, and then handwrite amendments to reflect the particular circumstances of the matter. Round down to nearest five minutes and adjust the dollar amount accordingly. Manually check any calculations included in the preliminary estimate of charge letter.

172. When the requested documents are received from the line area, prepare a notice of liability to pay a charge to be sent to the applicant (refer to FOI Templates). This notice provides a preliminary estimate of the charges payable for processing the request.

173. Before calculating the charge, ensure you have removed true duplicates so that the applicant is not double charged for multiple copies of the same document. You should only remove **true** duplicates. If a document has been changed in any way (e.g. by inclusion of a handwritten comment) it becomes a new document.
174. Depending on who the applicant is, you may need to amend the language in the template documents to suit the request situation. For example you may need to amend the section headed “**Option B – seek reduction or non-imposition of the charge**” to reflect ‘your client’ rather than ‘you’ when discussing financial hardship, where an applicant has applied on behalf of another person.
175. Update LEX reminders and the main details screen – large text box ‘Current status’ to reflect the date payment is due.

Tip for issuing a preliminary estimate of charge

- *The effect of issuing a notice of liability to pay a charge is the statutory timeframe is suspended from the date the notice is received from the applicant. The statutory timeframe begins again when the charge is paid or a decision on reduction or non-imposition of the charge is made.*
- *Certain limits apply in relation to the preliminary estimate of the charge:*
 - (i) *Requests by applicants for their own personal information are free of charge.*
 - (ii) *In relation to requests for documents that are not the applicant’s own personal information, the first five hours of decision-making time is free of charge.*
- *If no response is received to the preliminary estimate of charge within 30 calendar days of receipt of the notice, the applicant is deemed to have withdrawn the request.*

176. Charges can be paid online via Government EasyPay or by way of a cheque/money order made out to Collector of Public Monies. The template Charge Notification includes information for the applicant regarding how to pay the charge.
177. If payment of the charge is made, action payment as follows:
 - When payment is received, complete an Account Request form and save in the electronic file.
 - Send email to applicant to advise of receipt.
 - Scan cheque / money order details and save in electronic file.
 - Send an email to accounts.receivable@humanservices.gov.au, requesting an account be created; attach account request form and cheque / money order scan. Advise them the original cheque and Account Request form will be sent through internal mail. This must be done on the day the cheque is received.
 - When account has been created, Accounts Area will send details. Save these details in electronic file.
 - Receipt for the payment will then be processed. Update LEX to start the clock on the request 3 working days from receipt of payment. (This is considered bank clearance time for cheque processing).
 - The LEX database must be accurately coded to reflect the charges. This allows the department to meet reporting requirements.
Coding charges notified requires coding three fields in LEX. These are:
 - (i) File Notes – Date charges notified;

- (ii) File Notes – Stop clock and;
 - (iii) Main Details – Amount of charge notified.
- Coding charges received requires coding three fields in LEX. These are
- (iv) File Notes – Date charges received;
 - (v) File Notes – Re-start clock and;
 - (vi) Main Details – Amount of charge received.

Preparing a reconsideration of charges decision

178. When a preliminary assessment of charges has been issued to an applicant, they are entitled to ask for the charge to be reduced or not imposed. The applicant can provide submissions to support their request, that relate to the impact of the charge on their financial circumstances, any public interest considerations or any other matter that is relevant to the possible reduction or waiver of the charge.
179. The decision maker is also required to undertake a reconsideration of charges if the applicant reduces the number of documents in scope of the request.
180. On receipt of a request for the charge to be reduced or waived, the department has 30 days to make its decision.
181. There is no template for a reconsideration decision in LEX, however examples are available in HP Trim in relation to previous matters.
182. When preparing a new reconsideration decision, the decision maker should review the documents that are in scope of the request, including any subsequent revisions made by the applicant, and should prepare a new calculator confirming that the reconsidered charge is appropriate.
183. The charge cannot be increased during the reconsideration process.

Making a final decision on charges

184. **Remember** – when the time comes to make the Primary Decision regarding release it is essential the charge calculation is re-visited to determine whether it should be adjusted. The charge cannot be increased but if the time taken to process the request was less than the estimate, then you will need to adjust the charge accordingly. If the adjusted charge is less than the amount already paid, arrange a refund. The decision letter must reflect that the charge has been reviewed and advise the outcome of that review (see example paragraph in decision letter templates).

Stage 3 – Third Party Consultation

Third Party Authority

185. Where the scope of the request includes personal information about a third party, ask the applicant whether they have evidence of authority from the third party.

Tip for Authorisation

- *Authorisation is relevant to the s 47F exemption (documents affecting personal privacy).*
- *Authorisation is not mandatory. A request is still VALID even if authority is not provided.*
- *If no third party authorisation is provided by the applicant, it is usually necessary to consult with the individual whose personal information is contained in the documents.*
- *If authorisation is provided, disclosure of personal information would generally not be considered unreasonable.*
- *If the request is from a lawyer stating 'we act on behalf of...' this is considered to be an authorisation.*
- *If the authority provided is narrower than the scope of the request, discuss with the applicant whether they can provide a broader authority.*

Undertaking Third Party Consultations

186. Once payment of the charge or charge deposit is received (if applicable), conduct any third party consultation if required and consider the responses received.

187. Once it is evident that the documents being requested contain third party information (e.g. information from a business or professional or employer who wrote a report about a person; information about a spouse of the person), the applicant should be immediately notified of the additional time required to allow consideration of whether it is necessary to consult with third parties. Generally, consultation with the third party should commence at the same time as the applicant is notified of the additional time, unless a charge notice has been sent.

When to consult

188. Third party consultation is required where the requested documents:

- are **likely to affect Commonwealth/State relations**;
- relate to the **business, commercial or financial affairs** of a person or organisation; or
- Contain **personal information** within the meaning of the FOI Act.

189. If third party consultation is required, the statutory time frame will be extended by 30 calendar days (this means a total of 60 days to process the request).

190. Consultations should be emailed where possible. Activate the *read receipt* function, and insert the appropriate department FOI address in the *From* email address field.

Personal privacy consultation

191. Where a document includes personal information relating to a person who is not the applicant, you should provide that individual (the third party) a reasonable opportunity to make a submission that the document should be exempt from disclosure, before making a decision to give access (s 27A). If the third party is deceased, their legal representative should be given this opportunity.

192. Whilst the statutory obligation under section 27A must be considered prior to making a decision to give access, FOI officers should generally turn their mind to consultation with a third party, even if the decision maker is considering exempting the documents from disclosure. Consultation should occur where it is reasonably practical to do so and considering all relevant factors.

Protecting the privacy of the FOI applicant

193. When undertaking consultations with anyone outside the department, the identity of the FOI applicant must not be disclosed, unless you have obtained the consent of the applicant to do so. You must not disclose the identity of the third party when obtaining the applicant's consent.

LEX coding for consultation

194. If consultation is undertaken, extend the time by selecting the 'extend' selection near the clock running section. Select the s 15(6) option which will automatically add 30 days to the decision due date.

Clock is running with 15 days remaining ([stop](#), [extend](#))

195. Update the checklist and set LEX reminders to reflect that the processing time has been extended and when consultation responses are due.

Providing documents for the consultation

196. You should only give the third party access to the parts of the documents containing information that is relevant to them and that they could make submissions about. If a document contains a third party's personal information as well as other information about other third parties you **must** redact the information about the other parties before sending the document to the third party for consultation.
197. Sometimes personal information about one person is also personal information about another person. For example where a document states that person X holds an opinion about person Y, that statement is personal information about BOTH person X and person Y. In the first instance you should consult person X about the statement (as it is their opinion held about person Y). Depending on their response you may decide to exempt the statement. In that case it would not be necessary to consult with person Y. If person X did not object, you should then consult person Y about the possible release.

Consultation response received

198. If the third party has no objection to the release of the information you should record this in the FOI database. If no objections have been raised by the third party, no further correspondence is required with the third party.
199. Any objections by third parties regarding disclosure, must be considered and addressed before the documents may be released. Documents should be folioed (numbered) using the Adobe Pro tool, for ease of reference.

Tip for third party consultation

If time allows you can wait until the charge deposit has been paid before sending consultation letters out to the third parties. However, if the timeframe is tight or the matter is complex, it may be prudent to undertake consultations as early as possible, even before the charge deposit has been paid.

Third Party Objections to release

200. If the third party objects to the release, consider whether you need to call them to find out further information, to determine if a relevant exemption applies.

201. If a third party objects to the release but subsequently withdraws their objections, obtain their email address so you can confirm this in writing.

Third party Review Rights

202. If a third party objects to release, and the decision-maker nevertheless decides to release those documents, the third party has review rights that need to be exhausted **before the documents are released**.
203. Once you have sent the Primary Decision to the applicant (without the documents to which the third party objected), send a letter to the third party providing a statement of reasons for your decision to release and giving the information about their rights of review.
204. Update LEX reminders to reflect the date a response is due from the third party to initiate their rights of review (30 days from the date of them receiving the letter).
205. If no response is received, the remaining documents can then be released to the applicant. Prior to release of the documents you should phone the Office of the Australian Information Commissioner to ensure the third party has not sought Information Commissioner Review of the decision. In that case the document should not be released until the OAIC review process is exhausted.

Courtesy Consultations with Commonwealth government departments or agencies

206. Consultation may also be appropriate with other Commonwealth government departments or agencies where the documents being considered for release contain information relevant to them. These "courtesy consultations" do not extend the statutory time frame in which the decision must be made.
207. As a matter of practice:
- where an FOI request regarding cyber threats or cyber security is made, the department will conduct a courtesy consultation with the Attorney General's Department in relation to the request, and any proposed release of documents, to ensure that the decision made considered any related sensitivities.
 - where an FOI request is for documents, the release of which would have whole of government implications, the department will conduct a courtesy consultation with the Department of the Prime Minister and Cabinet.

Cabinet Documents

208. Under s34 of the FOI Act a document will be exempt from disclosure if it has been submitted to Cabinet for its consideration, or is a document that a Minister proposed to take to Cabinet, and the document was brought into existence for the dominant purpose of submission for consideration by Cabinet.
209. The Cabinet Handbook (issued by Department of the Prime Minister & Cabinet (PM&C)) requires a department to consult with the FOI Coordinator of PM&C on any Cabinet-related material identified as being within the scope of the FOI request.
210. As the custodian of Cabinet records (of both current and former governments), the Secretary of PM&C is required to provide evidence in support of Cabinet-related exemptions made under the FOI Act.
211. Decisions on Cabinet material should not be made, or documents released or exempted, until consultation has been undertaken with PM&C.
212. The Cabinet exemption in s 34 of the FOI Act is designed to protect the confidentiality of the Cabinet process and the principle of collective ministerial responsibility.
213. 'Cabinet' for the purpose for s 34 of the FOI Act means the Cabinet and Cabinet committees. (It does not include informal meetings of ministers outside the Cabinet).

214. The 2010 reforms to the FOI Act redefined and extended the Cabinet exemption to cover draft documents, Cabinet submissions not actually submitted to Cabinet and documents prepared for the dominant purpose of briefing a Minister in relation to Cabinet submissions.

Stage 4 – Making the Decision

Decision

215. Once the documents within the scope of the request have been retrieved and all third party consultations have been completed, the matter is ready for a decision.
216. All documents must be read, page by page and line by line. Consider all the facts and evidence, the FOI Act and OAIC guidelines.
217. Only those documents which were created on or prior to the date that the FOI request was received should be considered in the decision.
218. If documents cannot be located the stakeholder must confirm all searches undertaken to locate the relevant documents.

Stakeholder escalation

219. If the stakeholder has raised concerns around sensitivities regarding disclosure, and the FOI delegate determines that an exemption/conditional exemption will not be applied, the stakeholder **must** be further consulted to commence any escalation. This will provide the FOI officer with an opportunity to ensure that all relevant facts have been considered. An FOI officer must also escalate to their team leader.

Preparing the decision

220. Prepare the **primary decision** and prepare the documents for release (see Template letters in the FOI database and also in shared Drive).
221. Where consultation was required, update the paragraph in the decision letter on 'material taken into account in making the decision' to include:
 - Consultation with individuals in relation to the disclosure of their personal information; and
 - Consultation with any organisation in relation to the disclosure of information concerning the business, commercial or financial affairs of that organisation.
222. Consider the following when making a primary decision:
 - Primary decisions may only be made by [authorised decision makers](#).
 - Documents may be released in full, in part, or may be fully exempt from disclosure.
 - Provide reasons to the applicant for releasing documents in part or for exempting documents.
 - A Schedule of Documents is to be included in the decision notice, listing the documents within scope and decision on disclosure (Release in Full, Release in Part or Exempt in Full) as well as exemptions and deletions (see Template letters in the FOI database). When there is one document with only a few pages, an FOI officer may decide to include a full description of the document within the body of the decision letter, instead of preparing a separate schedule. This would only be contemplated where there is one document with limited number of pages.
 - Schedule heading - Where the request is from a third party for the personal information of another, the schedule heading should include the name of the person to whom the information relates.

Full or part access

223. Where you redact a portion of a document as out of scope, but you decide to release the balance of the document, this is considered a full **release on the basis that the entire part of the document**

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falling within the scope of the request is being released. Where part of the document is exempt from release, and part is released that is a **partial release**.

Re-assess charges

224. Your primary decision must reflect consideration of whether the charge (if one was paid) was accurate. Use time entered in LEX to assist. If the actual processing of the request took less time than what you estimated for the purposes of the charge, a refund will need to be issued to the applicant. If the processing took more time than what you estimated for the purposes of the charge note that in the decision. The preliminary estimate of charge cannot be increased at the decision stage.

Third Party Objections

225. If a third party objects to release, the documents or paragraphs they are objecting to cannot be released to the applicant until the third party's rights of review have expired.

Review rights

226. Include the relevant Rights of Review attachment to the decision.

Disclosure log determination

227. There is no need to include the disclosure log determination in the decision. The determination is made separately and should be included on the file but need not be notified to the applicant.

- **For all Decisions:**

- i. Save a final version of the decision letter
- ii. Convert to PDF version (this is the evidence of the final version as it can't be edited) – also retaining a word document
- iii. If an email is sent, retain a copy of the email with attachments as confirmation the email has been sent
- iv. If a letter is sent via express post, keep the express post tracking code into a LEX file note

Notifying a line area before release

228. In relation to:

- All significant requests;
- CSP matters;
- SNC; and
- where a line area noted sensitivities;

A copy of the documents in the form proposed for release must be given to the line area **before release**.

229. This gives the line area the opportunity to comment on whether the decision maker has correctly understood relevant sensitivities and to correct any mistakes regarding the factual basis of the decision.

Significant requests

230. Where a request is Significant, it is essential that the Minister's Office and the Executive be briefed on the implications of release and in particular on whether there are any residual sensitivities following the release of the documents in the proposed form. This also gives the Minister's Office and the Executive the opportunity to arrange further briefings or media talking points if required.

Making redactions Using Adobe

231. Where exemptions apply and redactions need to be made to documents, follow this process using the Adobe tool.

- Scan hard copy documents to 'searchable' PDF format.
 - Convert any coloured PDF documents to grayscale to reduce the overall size of the documents. This will speed up the electronic handling of the documents. Add Print Production to your tool bar via the Customize option in Adobe. Once added to the tool bar, select 'pre-flight'. Select 'PDF fixups' and convert to grayscale.
 - Collate all PDF documents into a single PDF by selecting the Document menu then Insert Pages. When using Adobe Acrobat Pro DC, select tools – combine files.
 - Folio collated documents by selecting the Document menu then Header and Footer then Add. Place your cursor in the Header Text field you would like the folio number to appear in then click Insert Page Number. Click OK. On Adobe Acrobat Pro DC you can select tools – edit PDF – Header & Footer – Add.
 - Show the Redaction Toolbar by selecting the Advanced menu then Redaction then Show Redaction Toolbar. On Adobe Acrobat Pro DC select Tools – Redact – Mark for redaction – Text & Images.
 - Change the colour of redactions by clicking Redaction Properties. Click on the check box next to Redacted Area Fill Colour – Select No Fill Colour (white square with a red line).
 - Redact sections of text by clicking Mark for Redaction. The point cursor selects areas to redact, such as pictures or bullet points. The text cursor will redact selected text only.
 - Redact reoccurring material such as a word, name or sentence or telephone number by selecting Search and Redact. Type the term to be redacted into the Search box and Select Whole words only. Click Search and Redact. This will search the document for each appearance of the term and return a list of each instance the term is mentioned. Select Check All then Mark Checked Results for Redaction to redact all the returned instances of the term. To search for an additional term click Begin a New Search.
 - Redact a page range by selecting the drop down menu next to the Mark for Redaction button. Select Mark Page Range. Select Mark Specific Page Range for Redaction and enter the folio numbers.
232. Save a copy of the document noting 'redactions marked' in the title. This is used in the event of a review process.
233. Redact the document by clicking Apply Redactions. A pop up box appears asking if you would like to examine the document for additional information. Click Yes. Select Metadata Click Remove.
234. Save your document noting 'redactions applied' in the title. Print that document and then re-scan. That scanned copy of the document can be forwarded to the applicant.

Redaction in No Fill Colour

235. When documents are released by the department under FOI any documents that are released with redactions must show, on the redacted document, the s of the FOI Act relied on to redact the material.
236. The applicant must be provided with a schedule that outlines where material has been redacted.
237. The department uses a redacting tool (Adobe Pro Software) that requires a 'fill colour' to be chosen when redacting material; to keep printing costs down the department chooses the 'no colour' option.

Staff details

238. FOI request acknowledgement letters notify the applicant that, unless they tell us otherwise, it is assumed that staff name and contact information is out of scope of the request.

239. IT Security considers the unique identifier (User ID) of departmental staff to be one of the key authentication factors that enable us to keep the department’s IT network secure.
240. These ID’s should be considered ‘need-to-know’, and those outside the department, and greater members of the public, do not need to know. Providing information around these ID’s to persons outside the department increases departmental risk levels, as any potential malicious actor has a significant piece of the puzzle, should they want to inappropriately access the department’s secure network.
241. When providing information externally, staff names, logon ID’s and direct contact details are generally considered as out of scope and would be redacted under section 22, as to aid in the prevention of inappropriate access.
242. Where an applicant has stated they wish to receive staff names, logon ID and/or direct contact details in their request, the matter is to be categorised as significant. An FOI officer must undertake consultations with all stakeholder line areas and potentially with individual staff and their line managers. It may be appropriate to consider section 47E (certain operations of agencies) and section 47F (personal privacy) in relation to the information.
243. The exceptions to redacting staff details (where they are within the scope of a request) are as follows:
 - Logon IDs that start with a * (for example, *ABCD): These are automatic computer transactions and not individual staff logon ids. As a result, are not redacted
 - 13XXXX numbers (for example, 131212): Where these are publicly available numbers they would generally not be redacted
 - Fax numbers: These numbers are not assigned to an individual officer, and as a result are not redacted under section 22
 - Embedded staff logon ID’s: Staff logon ID’s are only redacted where they are identified. This is generally where there is a prefix or heading indicator, such as ‘Author’, ‘printed by’ or ‘logon ID’.
The redaction of embedded logon ID’s would generally only occur when a line area has specifically identified concerns.

Quality Assurance – FOI Team

244. Note: All correspondence and document proposed for release **must have** a quality assurance review prior to release, as set out below. **Failure to have material referred for a quality assurance review is considered a serious breach of the approved FOI Procedures.**

Type of correspondence	Quality Assurance requirement
Confirmation of new scope emails only	APS5 or above
Non-significant matters – All correspondence and decisions	APS 6 or above
Significant matters - All correspondence and decisions	General Counsel
Correspondence regarding requests for consultation with DHS (in relation to a request being processed by another agency/state government)	EL2 or above
Transfer requests (to or from the department)	EL2 or above
Legal advice (written or verbal)	Legal EL2 (Principal Government Lawyer) or General Counsel

(See Quality Assurance Guide at [Attachment D](#))

Stage 5 – Notifying the Decision

Content of Statements of Reasons for Decisions

245. When you have made a decision on a request, a decision letter is provided to the applicant. When any aspect of the FOI request is refused or access is deferred, a decision maker must give the applicant a statement of the reasons in line with s 26(1).
246. Section 26 of the FOI Act sets out the content requirements for the decision.
247. A statement of reasons should not include any information that, if it were in a document, would cause that document to be exempt (s 26(2)). Consider the use of s 25 to neither confirm nor deny the existence and characteristics of a document as appropriate (e.g. section 37(1)).

Verification of Identity

248. Before sending documents containing personal information to a postal or email address you will need to verify the postal or email address, as part of the process of verifying the identity of the applicant (if the identity of the applicant is relevant to the decision whether to release the documents).
249. Check if the applicant has requested that notices be posted to a specific address or to an email address. If sending by post, consider the due date and as where appropriate use express post. When using email, activate the *read receipt* function, and insert the relevant FOI address in the 'From' Box: Either:
 - For FOI section matters: freedomofinformation@humanservices.gov.au
 - For Significant FOI matters: FOI.Legal.Team@humanservices.gov.au
250. An FOI applicant can choose to use a pseudonym or to engage with the department anonymously. Applicants are not obliged to provide their name. Where corresponding with an applicant by email, it is not necessary to send a duplicate by post.

Privacy checks

251. For each FOI request a two-step privacy check process is undertaken whenever FOI correspondence is sent and when documents are released. This is to ensure the right correspondence and right documents are going to the right applicant.
252. Privacy checks are required for all correspondence being sent externally. Postal and email addresses must be checked against the original request and a database check of the address should be included to ensure that the correct address information has been recorded.
253. Any attachments to correspondence must be checked to ensure the correct documents are being sent to the correct applicant.

Mandatory Privacy Check

FOI officer

254. Prior to sending a matter to QA, an FOI officer **must** undertake a Privacy check to ensure documents have been compiled correctly and documents have been checked for any third party information was considered, redactions were applied appropriately and Tax file numbers were removed. The check must be undertaken by opening the original FOI request and comparing this to the address on the FOI correspondence and in the database to ensure this is correct and that the correct applicant name and reference numbers have been applied.
255. This mandatory check must be documented in the LEX database via a hotkey – lower case 'e' and hit the 'back tick' key. See [Attachment H – LEX database Key Phrases](#).

Secondary check prior to release

256. Before any correspondence is sent externally, a privacy check **must** be completed by another member of the FOI team. This check must include looking at the original FOI request, the FOI database and the prepared correspondence. This ensures that the correct applicant, correct address/email is being used and final redacted documents are sent. When posting documents, the check should include the correct address on the envelope.
257. Once the privacy check has been completed, the FOI Officer making the privacy check is to code a file note in FOI LEX. See [Attachment H – LEX database Key Phrases](#).

Sending personal information by email

258. Customer's personal information is protected under the Control of Customer Information outside Core Systems Policy: Control Plan. In FOI matters, on a case by case basis, the FOI Officer will consider the risks of sending customer information electronically. To mitigate the risk, consideration is given to whether the customer's consent has been provided to transmit the information electronically. If all risks have been determined as acceptable, then the emails are marked as 'unclassified' and sent.

Sending emails externally

259. When sending an email externally send from the relevant FOI mailbox by opening an email and selecting 'Options': 'Show from' and entering the relevant FOI mailbox in the 'From' field:
 - For FOI section matters: freedomofinformation@humanservices.gov.au
 - For Significant FOI matters: FOI.Legal.Team@humanservices.gov.au
260. Prior to sending, select 'Request a Read Receipt' and 'Request a Delivery Receipt' from the Options menu. This is important so you can track the email and make sure it went to a valid email address. Read receipts are also important as evidence that the email has been opened. Print and file the receipts with a copy of the email in the FOI file.

Disclosure Log

261. Once you have made the Primary Decision you must update LEX **and** make a disclosure log determination.
262. There is no need to include the disclosure log determination in the decision. The determination is made separately and should be included on the file but need not be notified to the applicant.
263. If you make a determination to publish on the disclosure log, follow the process for publishing. The FOI reference number must be included with the description of the request. This will allow for a streamlined process if requests are subsequently received for the released documents.
264. The publication on the disclosure log **must** be completed within 10 working days of making the decision. The department publishes onto its disclosure log as soon as practicable.
265. FOI decisions are NOT uploaded on the disclosure log.
266. FOI database must be updated to reflect when disclosure log determination and include a file note to reflect when the publication was requested and when the publication has then been completed.

Notifying Line Areas of Finalisation

267. Once the decision has been notified, the line areas must be informed that the matter is now finalised.

268. A standard email is available as a stationery item in the FOI positional mailboxes.
FREEDOMOFINFORMATION mailbox → 2. Stationary → 1. SPOC → SPOC Notification of Finalised FOI Request

Internal Review Process

269. The internal review request must be allocated to a person with authority to make internal review decisions. The internal review decision should be made by someone at the same or at a more senior level than the original decision maker.
270. When an internal review is received, a new LEX record is created and this is linked to the related primary decision. A new e-file is also created at that time.

Acknowledgment

271. Whilst the FOI Act does not require acknowledgement of an internal review request, it is good administrative practice to do so within 14 days.

Internal review – Access grant decision

272. Where it is a third party who has requested internal review of a decision *to release document* containing their information (following consultation with the third party), the FOI applicant needs to be advised that an application for review has been received, and of the time frame for an internal review decision.
273. NB: To protect the privacy of third parties, the identity of the party seeking internal review must not be disclosed to any other person including the applicant.

Dealing with Requests outside the FOI Act

274. A line area may decide to deal with a request for information that does not directly refer to the FOI Act, through the department's Administrative Access Arrangements (the Arrangements). Such a request can be directly handled by the line area and does not need to be processed under FOI.
275. An applicant may make an enquiry directly to the FOI team for access to documents that may be available to them through the Arrangements. An applicant should not be required to make a valid FOI request for these type of documents.
276. Further details on releasing customer information through administrative access arrangements can be found in the Operational Blueprint guide - Customer requests access to their personal information 104-01010010.
277. Where the request is for personal information, the FOI Acknowledgment letter notifies the applicant that the department has an administrative access arrangements ('the arrangements') for the release of certain documents without the need for a formal FOI request. It goes on to notify an applicant that unless they advise otherwise, we may provide the requested documents through the Arrangements.
278. If the line area deals with a request that directly referred to the FOI Act, via the Arrangements, confirm in writing with line area that the release has occurred or will occur, including the date of release and documents released.
279. FOI will then deal with any residual documents falling with the scope of the request.
280. If all the documents requested are publicly available, generally you can consider providing a link and confirm the request can be treated as completed.

Data Management

281. Data from LEX is used for reporting purposes. It also provides the team leaders with an accurate and up-to-date snapshot of work on hand to ensure caseloads can be managed effectively.

282. All relevant requests must be correctly coded in LEX to allow for accurate data retrieval for reporting purposes.

Resources

[Freedom of Information Act 1982](#)

[FOI Guidelines](#) (issued by the Australian Information Commissioner under s93A).

[OAIC website](#) (especially see published decisions).

PART 3 – Amendment and Annotation requests

Overview

283. Part V of the FOI Act gives individuals the right to apply to an agency or minister to amend or annotate an incorrect record of their personal information kept by the agency or minister.
284. Part V enables records that are incomplete, incorrect, out of date or misleading to be amended on the application of the affected person. An applicant may also ask for the record to be annotated to include a statement explaining their objection and the reasons for their objection (s 51).
285. Decisions on the amendment or annotation of records under FOI Act must be made by authorised decision makers.
286. It is important to make preliminary enquiries to ensure the application meets **all** the formal requirements under the Act – section 49 (Amendment) or section 51A (Annotation), including that the applicant must have had lawful access- section 48.
287. Generally an amendment or annotation request will be registered as an enquiry and the FOI officer allocated the matter must check the matter carefully to check that it meets all the requirements of a valid amendment/annotation.

FOI LEX coding when enquiry becomes valid

288. If the matter becomes valid, a new amendment request should be registered into LEX. This can be cloned from the enquiry record and then updated to reflect the new access request. The enquiry record can be finalised by coding a finalised date and also linked as a related request. This will ensure reporting can be completed on the newly valid amendment request.

Acknowledgment

289. Whilst the FOI Act does not require acknowledgement of a request for amendment or annotation of personal information it is good administrative practice to do so within 14 days.

Transfer of Amendment or Annotation request

290. A request can be transferred with agreement from the receiving agency. Take care to confirm you have a valid amendment or annotation request to complete a formal transfer. Check to see if the request requires mandatory transfer. Check schedule 2 of the Act.

Time Frames

291. An amendment or annotation decision must be made within 30 days from the day after a valid amendment or annotation request is received. An extension of time is only available by applying to the Information Commissioner in writing for an extension of the process period after the initial period has expired (after the matter is deemed) (s 51DA(3)).

Implementing an Amendment Decision

292. Where a decision is made to amend a record in response to a request, all relevant records must be amended in whatever form those records are kept.
293. The records may be amended by correcting or updating them or by adding new information to make the record complete.
294. Care must be taken, however, to preserve the integrity of the record. The information being amended still has value as an historical record, and therefore should be retained as far as possible. Section 50(3) requires an agency or minister when making an amendment to ensure, as far as practicable, that the amendment does not obliterate the text of the record as it existed. Removing

or destroying part of a record would prejudice the record's integrity as an account of the information.

295. Although information should be amended in a way that does not obliterate the original text of the record, this may not always be possible with electronic records.
296. Where information cannot be altered on the document or in the database, the folio(s) or record(s) which contain this information should be clearly cross-referenced to the relevant place where the correct information is held.

Centrelink electronic records

297. For Centrelink records, a current On line document recording may have an annotation added with the details of the FOI Act amendment made. It should also include the FOI Act references under which the amendment decision has been made.
298. If other electronic records need amending, consider:
 - printing out the documents and making the amendments to the paper form;
 - scanning these amended documents to the specific customer record;
 - Create an On line document recording on the customer record to fully explain the decision, noting the location of the scanned document showing the amendment; and
 - Create a Display on Access (DOA) document. This has the effect to alert all staff to the documents that were amended, the ODR with the full explanation of the decision and information on where the amended version is located.
 - (i) There is a specific FOI DOA category for FOI amendment. This advises staff when accessing the customer record, that under the FOI Act decision, staff **must not** have regard to the original document, instead referring to the information within the amended scanned document.

Implementing an Annotation Decision

299. A person can apply at any time for an annotation to personal information, they do not have to apply for an amendment to the record first (s 48(d)).
300. When a decision is made to decline to amend, either wholly or in part, the applicant must be given the opportunity to submit a statement seeking annotation of the record they claim is incorrect, incomplete, out of date or misleading.
301. An annotation decision is implemented by adding the applicant's statement to the record, cross-indexed to the material claimed to be incorrect, incomplete, out of date or misleading. The annotation must be clearly displayed by flagging the electronic record.

Centrelink electronic records

302. For Centrelink records, a current On line document recording may have an annotation added with the details of the FOI Act annotation decision made. It should also include the FOI Act references under which the annotation decision has been made.
303. If other electronic records need amending, consider:
 - printing out the documents and making the annotation to the paper form;
 - scanning these annotated documents to the specific customer record;
 - Create an On line document recording on the customer record to fully explain the decision, noting the location of the scanned document showing the annotation; and
 - Create a Display on Access (DOA) document. This has the effect to alert all staff to the documents that were annotated, the ODR with the full explanation of the decision and information on where the annotated version is located.

- (i) There is a specific FOI DOA category for FOI amendment/annotation decision. This advises staff when accessing the information that was subject of the annotation request, to also note the information provided by the FOI applicant within the annotated scanned document.

PART 4: APP 12 – Procedures for FOI Staff

Overview

304. Under Australian Privacy Principle 12 (APP12) of the *Privacy Act 1988*, if the department holds personal information about an individual, then the department must, on request by the individual, give the individual access to that information. There are exceptions to access which are equivalent to the exceptions used in determining whether to release information under the *Freedom of Information Act 1982* (FOI Act).

Process

305. An APP12 request is processed in the same manner as an FOI Act request **except** for the following differences.

Registration

306. A valid APP12 request is one where the request is:

- a request for access to personal information;
- made by an individual or their authorised agent; and
- cites the *Privacy Act 1988*.

307. The request is registered in FOI Lex with the 'Request Type' field value set to '9.3 Privacy request for access APP12'. A file cover must also be created.

308. An email must be sent to the privacy@humanservices.gov.au mailbox advising that the matter is registered in the FOI LEX database; the FOI reference number and that the customer has been sent an acknowledgment.

309. Privacy will register the request in the Privacy LEX database and provide the LEX ID to FOI. The FOI LEX database will need to cross reference the Privacy reference number. However, only the FOI LEX number should be used in correspondence with the individual.

Processing the Request

310. Under 12.2 of APP12 the department is not required to provide the information to the individual where the department is required or authorised to refuse to give the individual access to the personal information under the FOI Act.

Written Notice of the Decision

311. Where the individual has been refused information, or refused access in the manner requested, the department must, by written notice, provide the reasons for the refusal and the mechanisms available to the individual to complain about the refusal. The individual can complain to the Information Commissioner under the *Privacy Act 1988*. However, the individual will not have a right to seek internal review or Information Commissioner Review.

312. The individual will be notified of the decision by the FOI team. The notification will include the FOI LEX number. The decision maker's signature block will identify that they are from the Legal Services Division but will not include a specific job title or branch.

313. An email must be sent to the privacy@humanservices.gov.au mailbox and include a copy of the decision letter.

Complaints

314. The Privacy Team will handle any complaints which are made regarding the request (including those made via the Privacy Commissioner).

PART 5: FOI Statistical Returns

What are the Quarterly and Annual Statistics?

315. Under s 93 of the *Freedom of Information Act 1982* (FOI Act) each agency listed in Schedule 1 of the FOI Act is required to report both quarterly and annually statistics within the statutory timeframe set out below. We report different information depending on whether we are reporting for the quarterly or annual statistics.
316. The types of information required to complete the quarterly statistics are:
- the number of valid requests the department received during the quarter;
 - what decisions were made on the requests, for example full release or partial release;
 - the number of Section 24AB consultation notifications and which cases were subsequently processed and not withdrawn or refused under Section 24;
 - what the department's response times were;
 - the total amount of application fees the department received during the quarter;
 - the total amount of processing charges that we notified the applicant of during the quarter and the total amount of processing charges that were received during the quarter;
 - the number of applications received for Internal Review and the Administrative Appeals Tribunal and the decisions made from these reviews;
 - details of any amendments to personal records.
317. The types of information required to complete the annual statistics are:
- Number of staffing resources involved in FOI work. This is broken down into staff members spending 0-75% of time on FOI work and staff members spending over 75% of time on FOI work;
 - calculating the total number of hours the line areas spent of FOI work;
 - cost associated with FOI. This includes the cost of photocopying, postage, telephone, purchase of FOI material, FOI training, printing, travel, solicitor's fees, legal counsel fees, application's litigation costs, computer time and any other cost spent on FOI.

Important Dates

Quarterly Statistics

318. Below are the reporting deadlines:
- Quarter 1 covers the period from 1 July to 30 September and the statistical information is due on 21 October.
 - Quarter 2 covers the period from 1 October to 31 December and the statistical information is due on 21 January.
 - Quarter 3 covers the period from 1 January to 31 March and the statistical information is due on 21 April.
 - Quarter 4 covers the period for 1 April to 30 June and the statistical information is due on 21 July.

Annual Statistics

319. The Annual returns must be submitted by 31 July for the financial year ending 30 June.

Roles and Responsibilities

FOI Officers

320. The FOI officer is responsible for ensuring all fields are accurately completed in the LEX record, including once the request has been finalised.

FOI Stats Officer

321. At the beginning of each month the FOI stats officer is responsible for actioning the FOI statistical reporting. The FOI stats officer is required to follow the FOI statistical reporting process documented in the FOI Statistical Reporting Task card.
322. The FOI stats officer is responsible for completing the FOI statistical quarterly reporting to the OAIC. This is to be completed by the dates shown above in Important Dates – Quarterly Statistics. The FOI stats officer is required to follow the OAIC quarterly reporting process documented in the FOI Statistical Reporting Task card.
323. The FOI stats officer is responsible for completing the FOI statistical annual reporting to the OAIC. This is to be completed by the dates shown above in Important Dates – Annual Statistics. The FOI stats officer is required to follow the OAIC annual reporting process documented in the FOI Statistical Reporting Task card.

Attachments

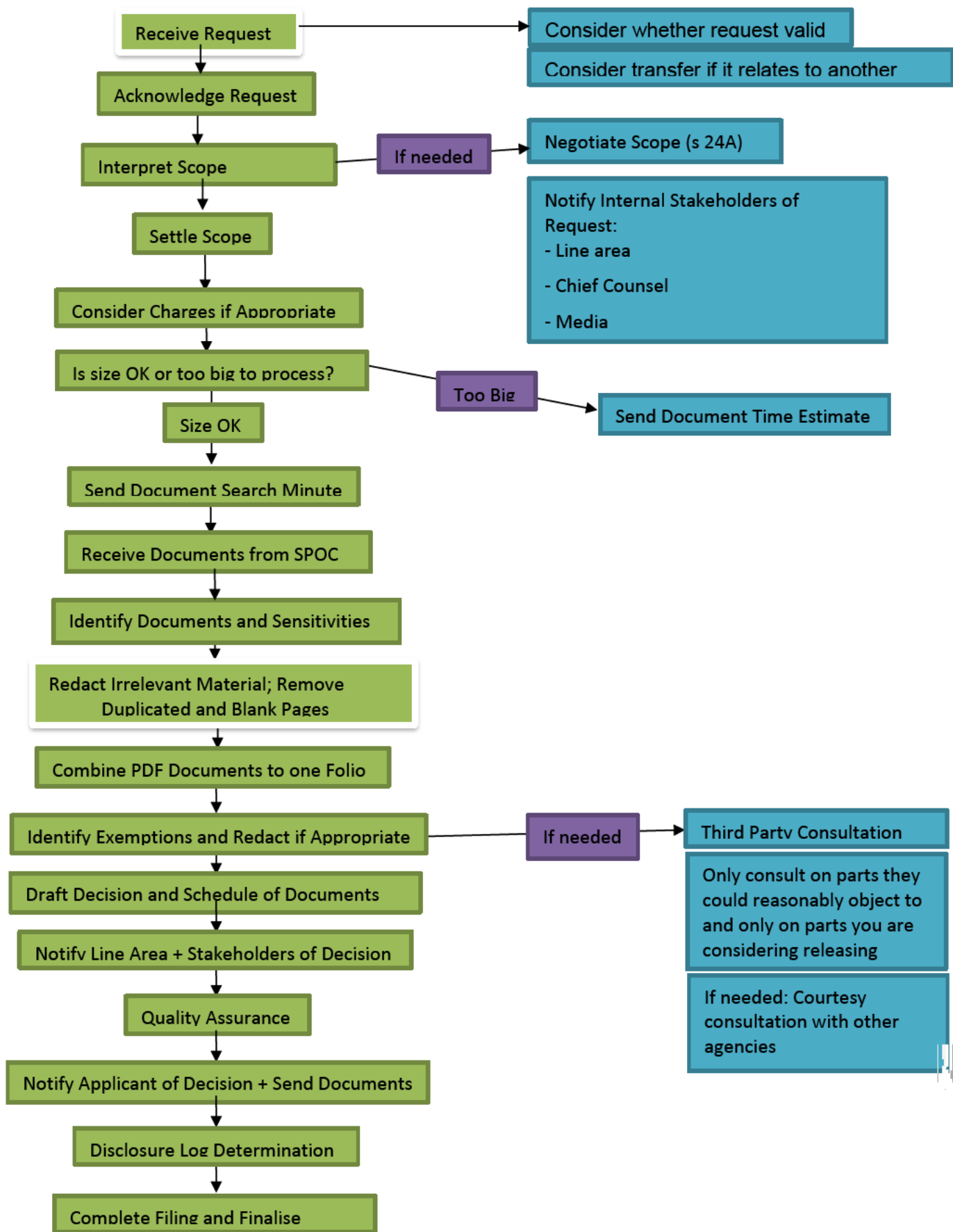
Attachment A – FOI Checklists

PRIMARY DECISION			DUE DATE:
Applicant Name:			LEX No.:
FOI Decision Maker (Primary Decision):			TRIM file:
Legal Officer (if applicable):			DHS External Lawyer (if applicable):
NOTIFICATION	DATE	INITIALS	COMMENTS
Request received by DHS			
Request allocated			
Request registered in LEX			
TRIM and electronic file raised			
Line Area and Chief Counsel (for significant requests) notified			
PROCESSING			
Search Minute sent			
Acknowledgment sent to applicant			
Documents reviewed for third parties			
Notification to applicant of need to consult third parties			
Preliminary Charge Estimate sent			
Cheque Deposit Received (if applicable)			
Consultation letters to third parties sent			
Consultation letters to other agencies sent			
Consultation with PM&C for cabinet documents			
Documents proposed for release sent to Line Area and Chief Counsel (for significant requests) for consideration of sensitivities			
Draft decision (revisit any charge)			
Quality Assurance of Decision			
Applicant notified of decision			
Cheque for balance of charge Received (if applicable)			
Documents released			
Disclosure Log determination made			
Documents for publication on Disclosure Log published			
Line Area notified			
File finalised			

INTERNAL REVIEW DECISION			
Applicant Name:		LEX No (Internal Review)	
		Due date:	
FOI Decision Maker (Internal Review):		TRIM file:	
Legal Officer (if applicable):		DHS External Lawyer (if applicable):	
NOTIFICATION	DATE	INITIALS	COMMENTS
Request for IR received by DHS			
IR Request allocated			
IR registered in LEX			
TRIM and electronic file raised			
Line Area and Chief Counsel (for significant requests) notified			
Primary Decision file received			
If Primary Decision file is not available or is incomplete then a report sent to relevant General Counsel to manage and arrange compilation of files			
PROCESSING			
Primary Decision file received and reviewed			
Applicants grounds of review considered			
Consultation undertaken with Line Area			
Further searches undertaken if required			
If considering release of additional documents:			
- Third Party consultation undertaken if required			
- Other agency consultation undertaken if required			
- Documents proposed for release sent to Line Area and Chief Counsel (for significant requests) for consideration of sensitivities			
Quality Assurance of IR decision			
Applicant notified of decision			
(If decision is to release additional documents) -			
- Documents released to applicant			
- Disclosure Log determination amended			
Documents for publication on Disclosure Log published			
File finalised			

OAIC REVIEW			
Applicant Name:		LEX No (OAIC Review)	
FOI Decision Maker (OAIC Review):		TRIM file:	
DHS External Lawyer (if applicable):			
NOTIFICATION	DATE	INITIALS	COMMENTS
Notification received by DHS of application for IC review			
IC Review allocated			
IC Review registered in LEX			
TRIM and electronic file raised			
Line Area and Chief Counsel (for significant requests) notified			
Primary Decision and IR Decision files received			
If Primary Decision or IR Decision files are not available or incomplete then a report sent to relevant General Counsel to manage and arrange compilation of files			
IC PRELIMINARY ENQUIRIES			
Preliminary enquiries request from IC received by Legal			
Assessment of time frame			
Preparation of response			
Response cleared by General Counsel			
Response provided to OAIC (this process may be repeated if further preliminary inquiries)			
NOTIFICATION OF REVIEW			
Notice of formal IC review received			
Assessment of timeframe and preparation response:			
- produce document			
- substituted decision			
- statement of reasons			
- Response cleared by General Counsel			
OUTCOME OF REVIEW			
Notification of IC outcome:			
- Application withdrawn			
- decision affirmed			
- decision varied			
- IC elected not to review			
- Substituted Decision by DHS			
Executive notified			
Appeal to AAT			
File finalised			

Attachment B – FOI Decision Tree



Attachment C – Naming Convention for FOI e-File

Naming Conventions for FOI e-File in HP Record Manager LEX 12345 - Surname, First name			
Share Drive Folder name	Document Type	Documents to be saved in Folder	Document Naming conventions
Registration	Registration	Request	LEX12345 - Registration - Request
		Attachments	LEX12345 - Registration - Attachments
		Authority	LEX12345 - Registration - Authority
		Covering Request Email	LEX12345 - Registration - Covering request Email
		Acknowledgment Letter	LEX12345 - Registration - Acknowledgment Letter
		Invalid letter	LEX12345 - Registration - Invalid letter
Communication Docs	Communication	s24AB (pdf signed)	LEX12345 - Communication - s24AB letter
		s24AB Response	LEX12345 - Communication - s24AB responses
		s24AB covering email	LEX12345 - Communication - s24AB covering email
		s16 Transfer (Signed pdf)	LEX12345 - Communication - s16 transfer letter
		s16 Transfer emails	LEX12345 - Communication - s16 transfer emails - date
		Third party consult (Insert Name) consult (email)	LEX12345 - Communication - ##### consult
		Third party consult (Insert Name) response (email)	LEX12345 - Communication - ##### response
		Consult - Internal (email)	LEX12345 - Communication - Internal consult request XXXXXX
		Consult replies (email)	LEX12345 - Communication - Internal consult response XXXXXX
		Extension of time request	LEX12345 - Communication - EOT request
		Extension of time response	LEX12345 - Communication - EOT response
		OAIC confirmation of EoT (email)	LEX12345 - Communication - EOT OAIC notification
		Consult s27A letter (signed pdf)	LEX12345 - Communication - s27A consult
		Consult s27A letter (signed pdf)	LEX12345 - Communication - s27A response
Email from Applicant - Date	LEX12345 - Communication - Email from applicant (Date)		
Response to Applicant - Date	LEX12345 - Communication - Response to applicant (Date)		
SPOC	Single Point of Contact	Single point of contact (search minute)	LEX12345 - SPOC - Document search minute
		Single point of contact (Doc retrieval)	LEX12345 - SPOC - Document search request
		SPoC response (search minute)	LEX12345 - SPOC - ##### - SPOC response search minute
		SPoC response (search minute covering email)	LEX12345 - SPOC - ##### - SPOC response covering email

DOCUMENTS	Documents	Spoc response (Doc retrieval)	LEX12345 - Document - ##### - SPOC retrieval Document 1 LEX12345 - Document - ##### - SPOC retrieval Document 2
		Combined Documents	LEX12345 - Document - Binder 1
		Out of Scope Documents	LEX12345 - Document - Out of scope
DECISION	Decision	Document Marked for redactions	LEX12345 - Decision - Document marked for redaction
		Document redacted	LEX12345 - Decision - Document final
		Draft Decision Letter	LEX12345 - Decision - Draft decision letter
		Decision Letter Final	LEX12345 - Decision - Decision letter final
		QA Checklist	LEX12345 - Decision - QA checklist

Freedom of Information Quality Assurance Guide and Checklist

Decision Maker Responsibilities

When quality assurance is complete – read and take into account the quality assurance comments/feedback, and discuss anything you do not agree with or understand with the team member who completed the quality assurance.

Presenting the work for quality assurance

- Read over the request to ensure you have covered all aspects of what has been requested.
- Proof read the letter to ensure it addresses the request meets the legislative requirements and flows logically.
- Correct any grammatical errors and typos as this is not the role of quality assurance.
- Case notes must be up to date in the database and scans of all stakeholder consultation and statutory consultations in LEX folders to assist with background information.
- Ensure that you advise the second counsellor of any sensitivity and/or any particular issues you may have with the decision and/or letter.
- In addition to quality assurance, a further check is required to ensure all redaction is correctly applied on all documents.

Ensure there is enough time for quality assurance within FOI time frames

- Do not assume a same day turnover. If the matter is complex or sensitive more time will be required.
- You should be discussing timeframes with the team member undertaking quality assurance as part of workload management.
- Do not make a commitment to an applicant on decision notification dates without checking with quality assurance officer first.
- Generally a case should be ready for quality assurance **five working days** prior to the due date.

All documents are checked for redaction before sending to the applicant

- Decision and documents should be prepared for notification within a timely period after QA response received (generally with 24 hours).
- In addition to the quality assurance of the decision, **all documents** must be checked by another person before sending to the applicant.
- Check all paper copies of documents to ensure redaction has been applied and correct documents are being sent to applicant
- If documents are being sent by email, another person should check that the correct redacted documents have been attached to the email, prior to the email being sent.
- After documents are thoroughly checked, signed off, place in envelope/ prepare email and send to applicant

Quality Assurance suggestions

1. Why is quality assurance undertaken?

- Helps decision maker and the quality assurance officer to learn.
- Helps assure quality and consistency.
- Ensures that all redaction is applied correctly before decision is sent to the applicant thereby reducing the risk of inadvertent disclosure.

2. Who can complete quality assurance?

- Quality assurance must occur at the EL1 and above level. See [Second Counselling Guide](#) above.

3. Feedback

- This is an opportunity to drive quality and consistency.
- Quality assurance officers should be prepared to discuss their feedback with the decision maker. If time is not available prior to the decision being notified, make some time to discuss as soon as time is available after the matter notified.

4. Ensure timely feedback

- If a quality assurance officer cannot provide feedback in a reasonable time, the matter should be escalated to an EL2 for urgent re-allocation of quality assurance.

5. Consider whether the substance of the decision meets the legislative requirements

- If the decision is legally incorrect or is unclear provide constructive suggestions as to how the decision/letter could be improved.
- Explain the changes you are making – it is not useful to merely cross out parts of or the entire decision without explanation.

6. Look at the structure of the letter

- Is it set out on the decision template?
- Is the letter structured/set out appropriately?
- Does the letter make sense?

7. Check all paper work to ensure documents are correct

- All documents for release must be checked before sending including to ensure that redactions have been correctly applied?
- The schedule and decision letter must be checked to ensure exemptions and redaction has been correctly applied?
- Is any meta data visible or can the redaction be lifted from the paper work?

Please note:

Quality assurance does not take the place of supervision and does not limit the role of supervisors giving performance feedback.

The quality assurance provides an integrity check to ensure the decision aligns with the FOI legislation and is not a process to redo the original decision.

Guide – FOI Quality Assurance Checklist

Action	
Open: <ul style="list-style-type: none"> • decision letter; and • documents for release with draft redactions 	<input type="checkbox"/> <input type="checkbox"/>
Open original request (shared drive LEX folder): <ul style="list-style-type: none"> • Address details in request– match the address on the notice • Scope of the original request • How notices to be sent 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Open LEX – go to file notes – reports and display all file notes <ul style="list-style-type: none"> • Check the POI check done – generally during registration phase. • No Privacy issues 	<input type="checkbox"/> <input type="checkbox"/>
In share drive LEX folder <ul style="list-style-type: none"> • SPOC responses • Consultation with applicant, third parties. 	<input type="checkbox"/> <input type="checkbox"/>
Check letter – decision is in line with the Act. Full scope is addressed.	<input type="checkbox"/>
Check documents – appropriate redactions Checked against schedule	<input type="checkbox"/> <input type="checkbox"/>
File notes are up to date in the database and scans of all stakeholder consultation and statutory consultations saved in folders to assist with background information.	<input type="checkbox"/>
Check coding on LEX as appropriate for: <ul style="list-style-type: none"> • Time and costs coded • Clock coding and date valid are correct • Documents requested is correct • Exemptions coded in file notes for Grant in part and access refused decisions 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Open QA spreadsheet in your name - Record the QA outcome	<input type="checkbox"/>

Attachment E – Request for Psychological reports

Psychologist Reports

1. Section 47E(a), (b) and (d) should be carefully considered when a request for a psychologists report is received. For such request FOI officers must consult with the appropriate Psychologist stakeholder area. This is necessary to ensure that all documents that fall within the scope of the request are located, and that all concerns regarding the release are identified. Documentation of the interaction with the psychologist should be maintained on file, especially when the psychologist expresses concern about the release of the report.
2. There are a number of exemptions that can be considered when making decisions regarding release of psychologist's reports. When applying any of these exemptions, the FOI officer must include documentary evidence of consultation and responses from appropriate stakeholders. Psychologist's reports must not be released without consultation with the relevant line area.

Background:

3. DHS Psychologists conduct interviews which may include psychometric assessments. Where relevant, the Psychologist collects information from third parties, records relevant information and writes a report.
4. DHS often receives FOI requests from customers seeking access to reports prepared by psychologists. When such requests are received, the relevant line area must be advised of the request, and asked to identify any concerns about the direct release of the report to the customer.
5. DHS occasionally receives FOI requests for access to the raw test results from psychometric test instruments used by the psychologist during the assessment. Generally these test materials, data and reports have not been designed for release to the customer as they are in a format for professional use only.

Psychometric Tests:

6. The effectiveness of psychological tests is based on the confidentiality of the test questions and answers.
7. Release of test questions and answers to members of the public would seriously compromise their confidentiality.
8. It would also allow potential test participants to contrive or modify responses during future tests, thereby placing the validity, integrity and usefulness of the test in jeopardy.
9. Thus, public knowledge of test questions and answers would render such tests useless to DHS Psychologists specifically, and to the psychological profession generally.
10. For this reason, access to, and administration of psychometric tests are restricted to qualified and registered psychologists.
11. Under the Psychologists Code of Ethics (Section A/6), psychologists must not compromise the effective use of psychological tests, nor render them open to misuse, by publishing or otherwise disclosing their contents to persons unauthorised or unqualified to receive such information.
12. Accordingly, consideration needs to be given to whether psychometric test materials administered by psychologists and customer responses to those tests would be exempted from release under FOI.

Attachment F - Decision Tree FOI and CSA secrecy provisions

Attachment G - S 24AB Consultation Process - Assisting an Applicant

S 24AB Consultation Process – Assisting an Applicant

FOI guidelines

FOI officers must have regard to the guidelines issued by the OAIC where a [Practical Refusal Reason](#) is identified.

Informal Consultation First

Where a Practical Refusal Reason arises you should firstly attempt informal consultation with the applicant to clarify the request. This should be within a reasonable period of time after being allocated the matter. In some cases it may be possible to do so within the first two days of being allocated the matter.

FOI officers should consider if there is an opportunity to facilitate informal access to some information during the initial FOI request stage. This may involve consultation with the stakeholder line area or coordination through the FOI team's administrative access processing team.

Informal consultation should preferably be by telephone to save time and to facilitate discussion on the terms of the request. When undertaking an informal consultation it is preferable to reiterate to the applicant that staff details are considered to be out of scope.

Telephone contact is often more helpful in clarifying the request to remove the [Practical Refusal Reason](#).

Where a verbal informal discussion leads to a revised request, it is best practice to notify the applicant of the revised scope in writing. If it is not possible to do so then FOI practitioners must consult their Team Leader.

Process

Process

The FOI officer will send an email, or letter, to the FOI applicant notifying them that they have revised the scope of the request based on their discussion and setting out the terms of the revised scope.

Email address available

- Where an email confirmation is sent, the applicant should be asked to contact the FOI officer within 2 days if the revised scope is incorrect. This short time frame will limit the days spent awaiting a response.

No email address

- Where there is no email address, a notification of the revised scope must be sent via post.

In both these cases, the FOI officer should discuss the process with the applicant to explain the correspondence that will be sent, and the action that is required by them.

If it is not possible to complete informal consultation with the applicant, the request must continue to be processed. Where a [Practical Refusal Reason](#) still exists, which includes where an applicant has not responded to the informal consultation within a reasonable period of time, initiate a formal request consultation process under s 24AB. A reasonable period of time may be determined by taking into account the time remaining to process the request.

Assisting the applicant during a request consultation process

If the applicant contacts the FOI officer during the consultation period, the officer must take reasonable steps to help them review the request so that the [Practical Refusal Reason](#) no longer exists (s24AB(3)).

The applicant typically does not know details of the type of documents held by the department, how they are held and how to describe the documents. In consulting with the applicant, the FOI officer should aim to assist the applicant to frame a request that can be processed.

Suggestions

Consultation with the stakeholder FOI single point of contact officer. They may assist you by:

- identifying issues that may have triggered a request; and
- identify types of documents that could be helpful to the applicant for that issue.

Consultation with the applicant

- Clarify the program the matter may relate to.
- Is there a particular issue that has prompted the request for documents? Perhaps the request could be narrowed to summary documents associated with issue.
- Is there a particular date range that the request can be limited to?
- Could some documents be excluded from the request? For example, letters sent to the applicant.

Applicants must respond to a consult notice in writing. You may consider extending the timeframe for a response to the notice where circumstances warrant an extension however you must have the applicant's consent (s 24AB(5)). If the applicant cannot reply by email, time can be extended, with the applicant's agreement (s 24AB(5)), to allow for a mail reply. Time could also be extended, with the applicant's agreement (s 24AB(5)), to allow a third party with authority to respond in writing, where literacy is an issue.

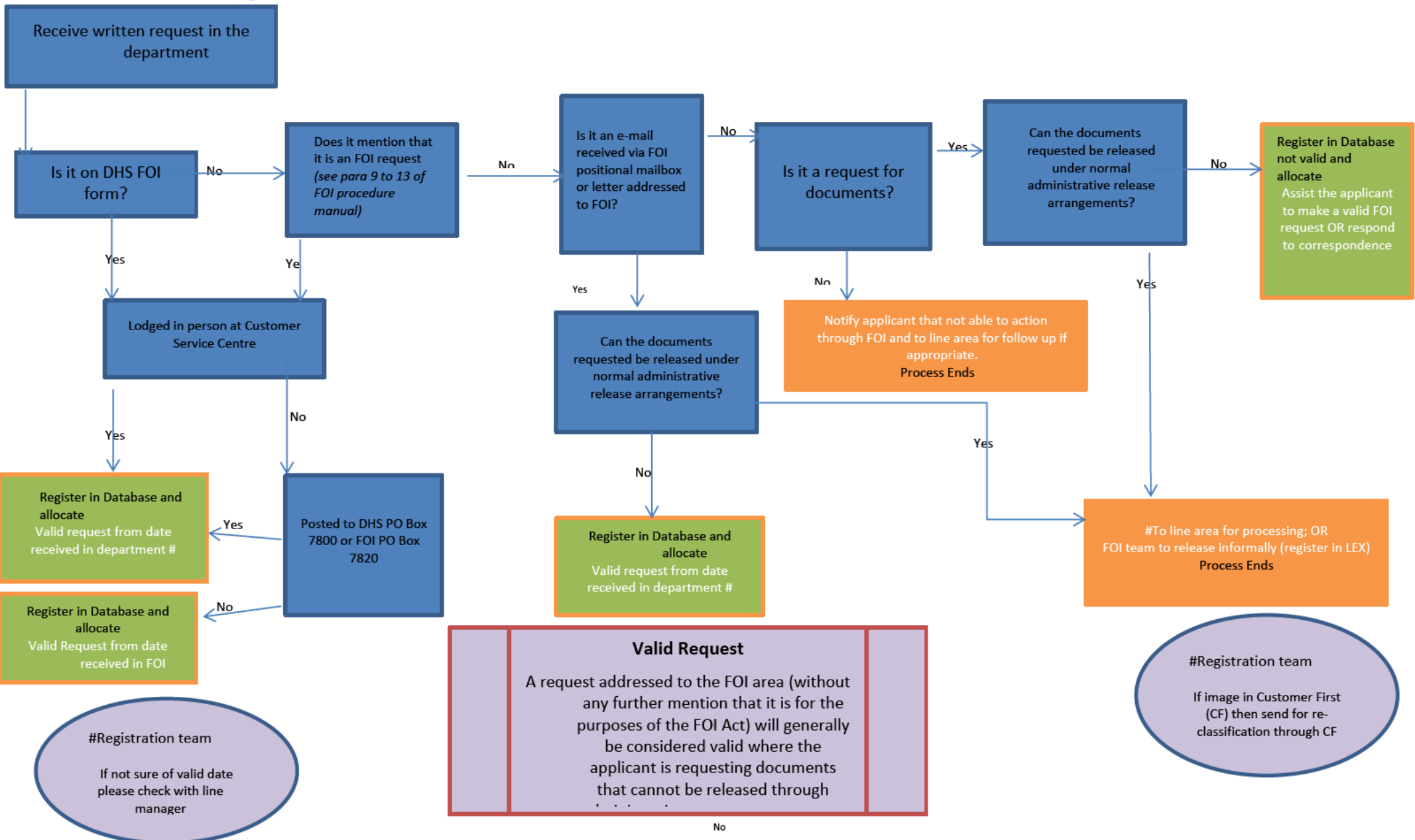
Attachment H - LEX database Key Phrases

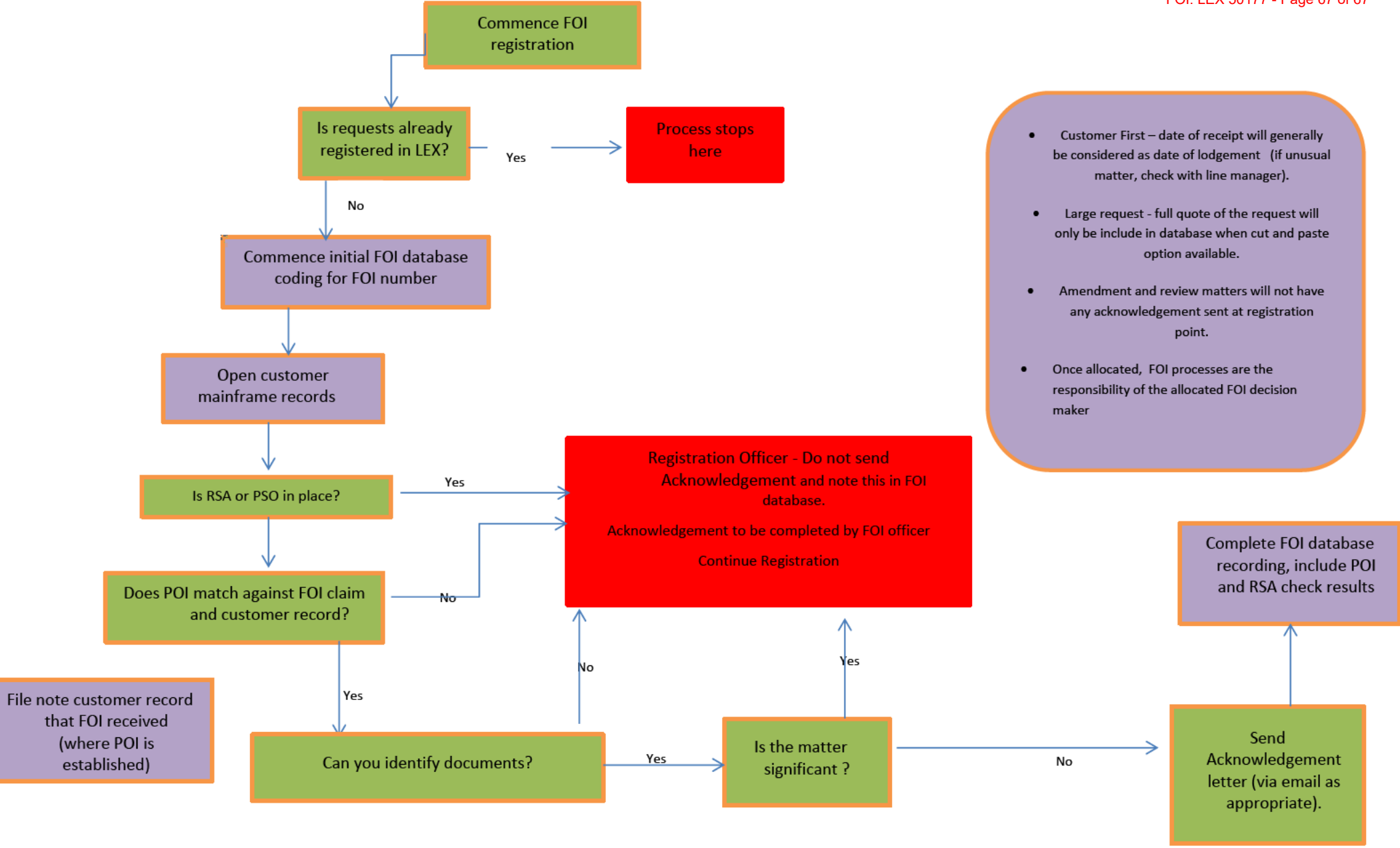
Code	Key phrase
1	<p>Registration completed</p> <p>_____</p> <p>Acknowledgement Letter sent by email - letter on:</p> <p>_____</p> <p>Checked and not a duplicate</p> <p>_____</p> <p>Customer Mainframe check</p> <p>Customer records checked for Restricted Servicing Arrangements (RSA) or if locked to a Personalised Service Officer:</p> <p>There are no RSA/PS arrangements in place for this customer as at today.</p> <p>OR</p> <p>The following RSA/PS is in place for the customer -</p> <p>_____</p> <p>Proof of Identify confirmed on following details:</p> <p>Customer name DOB, Email address Postal address CSRN / CRN Telephone & mobile number</p> <p>OR</p> <p>POI not checked because:</p> <p>_____</p> <p>Customer electronic record updated for file note - FOI request being processed by the FOI team Any enquiries regarding this request should be directed to the FOI mailbox freedomofinformation@humanservices.gov.au .</p> <p>_____</p>
2	ACK Letter Privacy check completed: letter/email
3	<p>Customer records checked for Restricted Servicing Arrangements (RSA):</p> <p>There are no RSA arrangements in place for this customer as at today.</p> <p>OR</p> <p>The following RSA is in place for the customer -</p>
4	<p>Proof of Identify confirmed on following details:</p> <p>Checked by: SPOC against mainframe records OR..</p>
5	<p>Registered as an enquiry - If this becomes a valid FOI request, update the 'Main details' TAB of LEX with the 'Request Type' change to - 'Access request - personal' or 'Access Request - non personal', add the lodgement date and start the clock. Ack letter required if request becomes valid.</p> <p>Do not code a valid date back into a previous month - a new record for the valid request</p>

	will need to be created in this circumstance to ensure reporting requirements can be met. Link as related requests.
6	Checking with SNC to see if related to SNC matter
7	Check with Serious Non Compliance (SNC) and not a SNC matter
8	EOT - Bulk Notification to OAIC
9	E File No: ER17/
a	Request received INSERT DATE (date format example 14 July 2017):
A	<p>Referred for QA - Grant full access</p> <ul style="list-style-type: none"> - s22 redactions applied to staff details / out of scope material - no s22 redactions to be applied - No exemptions identified - s47F considered but not applied in respect of (identify information) as (provide reason) - satisfied documents provided by SPOC/s address rqst - SPOC concerns noted, however not warranting any additional consults - SPOC has not identified any sensitivities - All relevant consults undertaken - Out of scope documents removed – relates to (provide brief description or explanation) - Duplicate documents removed – relates to (provide brief description or explanation) - Have amended decision letter to suit circumstances of this matter - Include any other comments relevant to decision
B	<p>Referred for QA - Grant access in part – (provide Act Reference/s)</p> <ul style="list-style-type: none"> - s22 redactions applied to staff details / out of scope material - no s22 redactions to be applied - No other exemptions identified - s47F considered but not applied in respect of (identify information) as (provide reason) - satisfied documents provided by SPOC/s address rqst - satisfied reasonable searches undertaken by SPOC/s to locate requested documents - SPOC concerns noted, however not warranting any additional consults - SPOC has not identified any sensitivities - All relevant consults undertaken - Out of scope documents removed – relates to (provide brief description or explanation) - Duplicate documents removed – relates to (provide brief description or explanation) - Have amended decision letter to suit circumstances of this matter - Include any other comments relevant to decision
b	<p>Date request received in Dept:</p> <p>Received via: Positional Mailbox/Process Direct</p> <p>DOC ID: Work item ID: (Delete DOC ID & Work item ID if not received via Process Direct)</p> <p>Date request received in the FOI team:</p>
c	Empty
C	<p>Referred for QA - ACCESS REFUSED</p> <ul style="list-style-type: none"> - Access refused – (provide Act Reference/s) - For s24A - satisfied reasonable searches undertaken by SPOC/s to locate requested documents - For S47F(1) - 3rd party consulted – refer to LEX note XX/XX/XXXX for details - 3rd party not consulted (provide explanation) - Do not consider reasonable to release documents (provide explanation) - Include any other comments relevant to decision
D	Empty
d	<p>MANDATORY PRIVACY CHECKLIST - FOI</p> <hr/> <p>COMPILING FOI DOCUMENTS</p> <p>1. Documents checked for third party information. Redactions applied as appropriate and in line with the FOI Act (e.g. spouse, child not in care, wrong customer, lists of other</p>

	<p>customer names) _____</p> <p>2. Tax File Numbers removed. _____</p> <p>PREPARE FOI LETTERS:</p> <p>3. Correct Address used (latest address on FOI application or mainframe)</p> <p>4. Cover letter checked for correct names and correct reference number/s. _____</p> <p>BEFORE SENDING FOR QA</p> <p>5. Final check of letters, schedule and documents for third party information (appropriately considered under the FOI Act) _____</p>
e	<p>FINAL PRIVACY CHECK PRIOR TO RELEASE (TO BE COMPLETED BY ANOTHER PERSON) _____</p> <p>1. Check for correct documents to the correct customer, and correct address.</p> <p>2. Final redactions applied to documents for release.</p> <p>3. Checked that covering letter is consistent with the FOI decision and documents to be released (FOI reference numbers match, amount of pages to be released matches decision letter).</p> <p>4. Final check for correct applicant and correct mailing address on envelope or email (latest address on FOI application or mainframe)</p> <p>5. S47F(5) documents are not attached to the initial decision. Held back for release to qualified person. _____</p>

Attachment I - FOI Registration Decision Tree





- Customer First – date of receipt will generally be considered as date of lodgement (if unusual matter, check with line manager).
- Large request - full quote of the request will only be include in database when cut and paste option available.
- Amendment and review matters will not have any acknowledgement sent at registration point.
- Once allocated, FOI processes are the responsibility of the allocated FOI decision maker