



Office of the
**Information
Commissioner**
Western Australia

Accessing government documents in Western Australia

*The Freedom of Information Act 1992
(WA)*

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The *Freedom of Information Act 1992 (WA)* (the **FOI Act**) gives the public a right to access Western Australian government documents, subject to some limitations. The right applies to documents held by most State government agencies (such as departments, public hospitals, public universities and State government authorities), Ministers and local government. Together, these bodies are referred to as 'agencies'.

Documents accessible under the FOI Act include (but are not limited to) maps, plans, diagrams, graphs, drawings, photographs, videos, audiotapes, CCTV footage and electronic records including emails. The access rights under the FOI Act do not apply to documents that are already publicly available for inspection or purchase.

An individual can also apply to have their own personal information in government documents amended if that information is inaccurate, incomplete, out of date or misleading.

How do I apply for documents?

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

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

Your access application must:

- be in writing;
- give enough detail to identify the documents you are seeking;
- give an Australian address (include a telephone number or email address for a faster response);
- be lodged at an office of the agency that you think holds the documents; and
- include an application fee in certain cases – see the next section – How much will it cost?

Some agencies have a specific form you can use for making your FOI request, but this is not mandatory.

Try to be specific about the documents you want. If your request is vague or includes a large number of documents, it may take longer to process. An agency may refuse to deal with your request if it considers that the work involved in dealing with it would involve a substantial and unreasonable diversion of its resources. The agency must take steps to help you reduce your application to a manageable size before it can refuse to deal with your application.

How much will it cost?

No application fee or charges apply if you are seeking personal information that is just about you (such as information about you in your medical records or details of your employment).

If you wish to access information that is not just about you, you must pay an application fee of \$30 and the agency may impose other charges but only as set out in Schedule 1 to the *Freedom of Information Regulations 1993*.

You can ask the agency for an estimate of charges when you lodge your application. If the charges are likely to exceed \$25, the agency must give you an estimate of charges and ask whether you want to proceed with the application. In some cases, the agency may ask you to pay a deposit.

Refining or reducing the scope of your application may significantly reduce the work for the agency and the cost to you. If you think that the documents you are seeking may contain personal or commercial information about others, and you are not interested in that information, let the agency know when you lodge your application. This will save the agency from having to consult with those parties, which should reduce the time it will take for the agency to deal with your application.

Tell the agency if you are financially disadvantaged, as you may be entitled to have any charges reduced or waived.

How long will it take?

Once the agency receives your valid application, it must deal with it as soon as practicable, but in any event within 45 days. Within that time, the agency must give you a written notice of its decision on whether to give you access to the documents you have requested.

If the agency refuses you access or only gives you partial access to the documents you have requested, it must explain why particular documents or parts of documents cannot be released.

Will I get all the documents I ask for?

Under the FOI Act, some types of documents are exempt from disclosure to protect certain public interests. Documents that would reveal personal information about other people, or documents that would reveal certain information about the commercial or business affairs of others may be exempt. Documents may also be exempt if their disclosure would pose a threat to public safety or law enforcement, or would breach particular confidentiality obligations. The full list of exemptions is in the FOI Act.

If the documents that you apply for contain exempt information, the agency may still be able to give you a copy, but with the exempt information deleted or obscured.

What if I disagree with the agency's decision?

Access applicants and third parties (where the agency decides to disclose personal information or business or commercial information about a third party) can seek review of an agency's decision under the FOI Act.

Firstly, you can apply to the agency for an 'internal review' of its decision. Your internal review application must be in writing and lodged at the agency within 30 days after being given the agency's notice of decision.

An internal review should be conducted by an officer in the agency who is not subordinate to the person who made the original decision. The agency must advise you in writing of the outcome of the internal review within 15 days.

If you disagree with the agency's internal review decision, you can apply to the Information Commissioner (**the Commissioner**) for an 'external review'. An application for external review under the FOI Act is called a 'complaint'.

Your application for external review (complaint) must:

- be in writing;
- give an Australian address to which notices can be sent;
- give particulars of the decision you want reviewed;
- attach a copy of the decision you want reviewed; and
- be lodged with the Office of the Information Commissioner (in person, by mail, fax or email).

Access applicants must apply within 60 days after being given the agency's decision. A third party affected by the decision of the agency must apply within 30 days. In exceptional circumstances, the Commissioner may allow a complaint to be lodged after these periods have elapsed.

There are no fees for internal or external review.

What happens in an external review?

The Commissioner can review decisions made by an agency about an FOI application. The Commissioner is independent of executive government and reports directly to Parliament. The Commissioner will undertake an impartial external review of the agency's decision based on the merits of the case and the relevant provisions of the FOI Act.

The Commissioner will decide the best way to deal with your complaint. This will usually involve examining the documents concerned and forming an opinion on whether they are exempt from disclosure under the FOI Act. All parties to a complaint are given an opportunity to present their case.

The Commissioner will try to resolve the complaint through conciliation. If a complaint cannot be resolved in this way, the Commissioner usually issues a formal decision that confirms, varies or

sets aside the agency's decision. In some cases, the Commissioner may stop dealing with a complaint if the Commissioner considers that it is lacking in substance.

What if I believe that an agency holds incorrect information about me?

If you believe that an agency holds personal information about you that is inaccurate, incomplete, out of date or misleading, you can apply to the agency to amend that information. The agency may decide to amend the information, for example, by altering it or inserting additional information to correct the record. However, an agency generally cannot obliterate or destroy information about you.

The procedure for applying for the amendment of personal information is like the procedure for accessing documents outlined above. Again, the best approach is to talk to someone at the agency in the first instance to discuss your options.

Further Information

For more information about accessing documents from a particular agency, contact that agency. A list of state government agencies and Ministers is available at www.wa.gov.au. A list of local governments is available at <https://www.mycouncil.wa.gov.au/>

Our website includes more information to help you understand your rights under the FOI Act – go to: www.oic.wa.gov.au.



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