



Office of the  
**Information  
Commissioner**  
Western Australia

# FOI process guide

## Third parties and their rights

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### Who is a third party under the *Freedom of Information Act 1992*?

You are a third party if:

Personal information about you is contained in documents held by a government agency and an application has been made by someone else seeking access to those documents.

OR

Commercial or business information about you, your company or your business is contained in documents held by a government agency and an application has been made by someone else seeking access to those documents.

**Before** any decision is made to release a document containing personal information about you or commercial or business information about you, your company or your business, an agency must consult you and take into account your views.

An agency does not have to consult with you if it decides to deny access to the documents. You may be advised that an application has been made, but normally in such cases the agency advises the applicant direct that the documents are exempt.

### How will I know if an agency is considering the release of documents involving me or my business?

The agency will contact you and ask whether you consent to the disclosure of the documents, or if you consider the documents contain matter that is exempt.

### What must I do if I am consulted by the agency?

The agency will require you to respond either by telephone or in writing, within a specified time. If you do not consent to disclosure of the documents, you must tell the agency why and give your reasons. Discussion with the agency may assist you to explain your views fully.

**If you do not respond within the time specified**, your rights as a third party no longer apply and the agency will proceed to make a decision and advise the applicant. You will no longer be involved or advised of the outcome.

### What does the agency do after consulting me?

The agency will take your views into consideration before issuing a formal notice of decision on whether or not to grant access to the applicant.

### What are my rights as a third party?

If the agency decides to grant the applicant access to the documents against your wishes, you will be advised, and informed of your rights of review.

The agency must not release the documents until the time for you to “appeal” against that decision has expired, and if you do appeal, the documents cannot be released until the process is completed.

## How do I “appeal” against an agency’s decision?

In the first instance you apply to the agency for an internal review which will be conducted by someone senior to the person who made the initial decision.

After internal review, if you are still dissatisfied with the agency’s decision you can lodge a complaint in writing with the Information Commissioner.

The Information Commissioner is appointed by Parliament to provide an independent avenue of review of agency decisions, and seek conciliation where possible.

There are no costs to you for internal review (by the agency) or external review by the Information Commissioner.



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