

Freedom of Information

1 Responsibilities

As Paralegal, you will be responsible for:

- Initially responding to FOIs when they are received and managing the FOI inbox – template response below
- Adding new FOIs into the Legal Work Record and opening SharePoint files for new FOIs
- If the FOI is a request for a person's own complaint file, contact the investigation and conciliation section, to request the file to be transferred
- Converting emails/docs into PDFs and combining them in Adobe Acrobat as requested by the lawyers
- Redacting documents under guidance of lawyer
- Maintaining the FOI SharePoint files. These need to be up to date so you can do the statistical reporting
- Quarterly and annual statistical reporting to the Office of the Australian Information Commissioner (OAIC)
- Updating the Disclosure Log and responding to Disclosure Log requests.

If anything else arises or you need assistance, discuss with the Deputy General Counsel, who generally handles the FOIs.

2 FOI Applications

An FOI Application is when someone contacts the legal team through the FOI Inbox or post seeking information held by the Commission. The legal team will assess whether or not the information requested can be released to them by the Commission in accordance with the FOI legislation, and in what form (i.e. documents in full, documents with redactions, cannot be released, etc). Notes:

- Before embarking on your first FOI application, you **must** consult the [FOI guidelines](#) on the requirements for FOI for federal agencies (also saved copy in Paralegal Manual).
- It is worthwhile reading some old decisions and look at documents with redactions for certain exemptions. You will be able to get an idea of how and what we redact- for instance personal information, whether or not a person's name and job title is redacted etc.

2.1 When an application is received:

1. Forward request to the General Counsel to be allocated to a lawyer (cc. the Deputy General Counsel in).
2. Add the FOI request to the Legal Work Record, filling in required information.
3. Create a file for the FOI request in SharePoint.
 1. SharePoint > Legal Workspace Matters > FOI > New > New Docset
 2. Name* = Last name (as this will be what comes up for the title of the Docset)
 3. Fill in all the info including First Name, Last Name, Description, Docset Type, Date Received, Officer (if already allocated, if not leave), Request Type, Request Category, Information Type, Due Date, etc. Note:
 - Docset Types = FOI; Admin Release (released administratively, rather than as an FOI, as simpler to do so); APP 12 (Privacy Act); Disclosure Log (request for documents already on the Disclosure Log); IC Review (review by Information Commissioner); Consultation (3rd parties hold relevant AHRC documents and are requesting to release them).
 - Supervisor is generally the Deputy General Counsel.

- Due Date is the date 30 days after receipt as mentioned to the requester in above email.
 - Note whether personal information type or not, as makes clear whether will go on Disclosure Log.
4. The sections re Consultation, Exemptions, Time Spent, Outcome and Disclosure Log will be filled out by the lawyer working on the matter as it closes.
 5. Save a copy of the original request email or letter in this file.
4. Draft and send an email (or letter if we received by post with no return email) to the applicant: (and ensure to save a copy in SharePoint)
 - Advising that the request was received and the date of receipt;
 - Including a short summary of documents requested. Try to repeat the exact wording within the request;
 - Stating the date that comes 30 days after the day we received the request and advising that this is the statutory deadline for the Commission to process the request. I.e., count "1" on the day following receipt of the request. It's often easiest to use Google to work out the date – e.g. '30 days from today".
 - Note: if the deadline falls on a weekend, then the deadline is the following Monday. This however, does not apply to public holidays.
 - Advising the applicant to contact you (or the lawyer responsible if it has already been allocated) with any questions.

Here is the standard email template:

Dear X

The Australian Human Rights Commission has begun processing your request under the Freedom of Information Act 1982 (Cth) (FOI Act).

You requested access to:

[re-state their request, best if can quote directly]

*Under the FOI Act, the Commission has until **<enter specific date>** to make a decision in relation to your request.*

If your request covers documents which contain the personal information of third parties and the Commission is required under the FOI Act to consult with the person or organisation concerned before making a decision on the release of those documents, the processing period will be extended a further 30 days. An FOI officer from the Commission will advise you if third party consultation is required.

Please feel free to contact me should you have any questions relating to your request for documents.

Kind regards

5. In relation to requests for complaints files (i.e. these are often made by the complainant or the respondent to a complaint), you need to conduct a file search:
 1. Email the Supervisor of the National Information Service (NIS) in Complaints with details of the FOI request and ask them to forward all relevant files to the Legal Section (the Supervisor will likely add these to the FOI Dropbox and inform you).
 2. If it is an older file, email Registry with details of the FOI request and ask them to forward all relevant files to the Legal Section; and
 3. Keep copies of emails in the SharePoint file. Save the files transferred from the Supervisor of the NIS or Registry to the SharePoint file.
6. Assist the lawyer responding to the request as asked – you will be advised what needs to be done in each case. With most FOIs, you will need to:
 - If it is a physical file (rarely), scan in the docs. Number the pages. You can do this by using Adobe Acrobat.
 - You only need to number pages that have content on them, i.e. you don't need to number the back of one-sided pages (you can delete these from the PDF).
 - Make sure you number all documents (each page number is a 'folio' number) including file attendance slips, envelopes, contents of envelopes etc.
 - If there is more than one file, start with the oldest file, number that from back to front, then move to the next file and continue numbering. You should **not** begin again from number 1 with each file.

- Create a schedule of documents and combine the PDFs in the relevant order
 - You may be asked to redact information from documents, using Adobe Acrobat.
7. When the FOI has been finalised, update the current Legal Work Record and ensure all the information for the SharePoint file has been filled out by the lawyer.

2.2 Administrative responses:

8. On occasion, an FOI request may be processed administratively. This means that rather than processing the FOI request formally under the Act, and producing a decision letter, we are able to release the information directly to the applicant. This can make the process simpler and quicker for the applicant. More information on administrative releases can be found in the [Guidelines](#).
9. A common example of where an administrative release could be appropriate, is where the FOI applicant makes a request to the Commission for statistics relating to some of our complaint data (for example, requesting to know how many disability discrimination complaints we received in a particular year).
10. In instances like these, the Deputy General Counsel will direct you to contact the Supervisor of the NIS to compile the statistical data for you. Once you have this data (and the Deputy General Counsel has approved), you can propose an administrative release to the applicant. If the applicant is satisfied with the administrative release, you can request that they withdraw their FOI request.
11. Importantly, the FOI is not finalised, until the applicant has confirmed they withdraw their FOI request (therefore accepting the administrative release). If they refuse the administrative release, or otherwise have not yet replied, treat the FOI request as though it is not finalised. It may be best to send a follow up email.

3 Statistical Reporting Requirements

3.1 How often you will need to report

1. *Quarterly reports* are required to be lodged to the OAIC on the following dates:
 1. For period 1 July – 30 September: 21 October
 2. For period 1 October – 31 December: 21 January
 3. For period 1 January – 31 March: 21 April
 4. For period 1 April – 30 June: 21 July
2. You should set appointments for these dates in your Outlook, with a reminder 2 weeks in advance.
3. The *annual report* to the OAIC is to be lodged by 30 July each year.

1. Preparation

- Buy a coffee before you do this. You will need to do some prep for this reporting, and doing a little work constantly and keeping the matters up to date on SharePoint will make the job less painful!
- For *quarterly reports*, look up on SharePoint and the LWR all of the FOI files that been processed/received in the past quarter. This includes files we had on hand at the start of the period as well as new applications we received in that period. The quarterly report is straightforward.
 - Lawyers have been told to enter all the details about their FOIs into their SharePoint file properties, including what exemptions were used. This, in theory, should make your job a little easier as you should only have to consult the LWR to work out stats. However, they sometimes forget to do this. **Before you sit down and do stats, send an email to the lawyers asking them to complete their FOI file properties in SharePoint and give them a deadline (usually one week before you want to do stats).** Otherwise, they will forget and you will need to look through the decision letter in the FOI file to determine which exemptions were used.

- You will need to work out when each application was made/ finalised/ any exemption used etc. and whether the request related to personal information or not. You can find all this information on SharePoint > Legal Matters > FOI. It is useful to press 'Export to Excel' and then the filled columns will automatically export to a spreadsheet where you can see all the numbers easily.
- *Annual reports* are a bit more complex and require a little bit more prep. You will need to report on how much time (broken down according to the APS levels of the staff who handled the reports) and how much money we spent on FOIs in the past year.
 - Locate all FOI files that we have handled in the past financial year. Create a spreadsheet which details when we got each FOI, when the decision was made, how much time people of various levels spent working on it etc. Note all of the lawyers in the team are EL1 or EL2 (the Deputy General Counsel).
 - Generally, now everything is done electronically, but for any hard copy or letter FOI files you'll have to estimate how much money was spent – e.g. amount of photocopying, number of envelopes used; how much postage was spent; did we copy any data to CDs and how much did they cost, etc etc.
 - Note that as of August 2024:
 - A4 paper in colour cost 4.5c per page.
 - A4 paper in greyscale cost 0.45c per page.
 - Use this spreadsheet to plug the info into the report.

2. Reporting

Go to <https://foistats.ag.gov.au/> and log in

As of August 2024, the log in details are:

User ID: s 22

Password: s 22

Note: You may need to email foistats@oaic.gov.au your IP address in order to access the platform. Place "IP address whitelisting" in the subject header and send them your IP address (<https://whatismyipaddress.com/>).

Please input your contact details by clicking 'Edit' on the Agency Dashboard page.

1. Select quarterly report and for which quarter or annual report.
2. There are several pages for each report – fill in each page and click save.
3. There are three pages for each *quarterly report*. The first page is about new applications and processing time and fees – we have a bunch of stuff to fill in on this page. Second page is about internal review – sometimes we have something to report there. Third page is amount amendment of records – occasionally we might have a request like this but very rarely.
4. There is only one or two pages for the *annual report*.
5. You can go back in and edit reports within that reporting time-frame, so don't worry if you realise later that you made an error.
6. Read the OAIC's 'Guide to the quarterly and annual FOI Act statistical returns to the office of the Australian Information Commissioner'. **Make sure you read these.** <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/foistats-guide/>

4 Disclosure Log

We upload a description of decisions that qualify for disclosure on our FOI log, please see <https://www.humanrights.gov.au/freedom-information-disclosure-log>

4.1 Requests for Disclosure Log documents

You will sometimes receive emails from individuals requesting documents on the Disclosure Log.

When you receive the request, locate the corresponding file in SharePoint. For more recent requests this can be done by searching for the FOI reference number. For older requests that do not have an FOI reference number listed on the Disclosure Log, it is easier to search by date.

Once you have found the relevant SharePoint file, locate the PDF of documents that were released (we only release the documents, *not* the decision letter). Forward the request for the disclosure log documents to the Deputy General Counsel, attaching the PDF of documents. They will check these and approve for you to send out the documents. Then you can simply email the requester back attaching the relevant documents.

4.2 Updating the Disclosure Log

The Disclosure Log should be updated regularly as FOI decisions are released. Ideally, a decision that could go on the Disclosure Log should be added to the website within ten days of document release.

There is a Disclosure Log word document saved on the homepage of SharePoint.

When you have time, update this in tracked changes. Only decisions that **do not** relate to personal information (i.e. requests for a person's own complaints file) need to be reflected in the log. If you do not know whether to include something, please liaise with the Deputy General Counsel in relation to updating this log and refer to the FOI Guidelines.

Once you have finished adding the changes, send to the Deputy General Counsel for their edits and approval. Once they have approved, the website can be updated to reflect the updated table. Contact Web Requests team who will help you upload changes to the log, and can also set up training on how to update the website yourself.

Information Publication Scheme

1 Background

In addition to the scheme for right of access to documents for FOI applicants, the *Freedom of Information Act 1982* (Cth) (FOI Act) establishes the Information Publication Scheme (IPS).

The IPS requires agencies to publish their operational information online. This applies to all agencies that are subject to the FOI Act, including the Commission.

In July 2023, the Office of the Australian Information Commissioner (OAIC) updated its [IPS Guidelines](#).

This note outlines the Paralegal's responsibilities in updating and implementing the Commission's IPS Plan and IPS Entry.

2 IPS Plan

Section 8(1) of the FOI Act requires agencies to prepare a plan showing:

- the information the agency proposes to publish under the IPS (its IPS entry)
- how, and to whom, the agency proposes to publish that information
- other steps the agency will take to comply with IPS requirements.

The Commission published its 2011 IPS Plan on its [website](#).

The Commission's IPS Plan was updated following the release of the 2023 OAIC IPS Guidelines, and has recently been approved for publishing on the Commission's website.

3 IPS Entry

Create a draft IPS Entry to put on the Commission website.

This Entry should follow a similar format to the [Attorney-General's Department's IPS Entry](#). Almost all of the relevant information is already available on the Commission's website and in its annual reports, so the IPS Entry will only need to hyperlink to those existing webpages.

Once you've created a draft IPS Entry, send this to the Deputy General Counsel for approval before uploading it on the website.

4 Maintenance of the IPS

Once the IPS Entry is live, diarise a review of the content of the IPS Entry every quarter. In your review, make sure that:

- Links are working and accurate
- Information is up-to-date
- Any new key documents that have been published on the website since the previous review are included in the Entry.