Freedom of Information Guidelines

APPENDICES

INFORMAL REQUESTS FOR GOVERNMENT INFORMATION

OCTOBER 2019

Disclaimer

Under s 66 of the *Freedom of Information Act 2016* (FOI Act), the ACT Ombudsman has the function of issuing guidelines about freedom of information ('FOI').

The information in this guideline is not legal advice and additional factors may be relevant in your specific circumstances. Any views expressed in this guideline are general in nature and the ACT Ombudsman remains open to all arguments and evidence on a case by case basis. For detailed guidance legal advice should be sought.

The FOI Act is amended from time to time and you should always read the relevant provisions of the Act to check the current wording. All ACT legislation, including the FOI Act, is freely available online at: https://www.legislation.act.gov.au.

Attachment A—Assessment checklist—informal release

Factors indicating information is *not* suitable for informal release	If checked, *not* suitable for informal release
Release is restricted by statute (including secrecy provisions) *If restricted, refer person to make an access application under s 30*	☐
Information concerns a third party (or includes third party information that cannot be easily redacted) *If extensive redactions need to be made consider referring a person to make an access application under s 30, or offering a summary of the information which removes third party information.*	☐
Release is restricted by contractual terms, copyright or intellectual property laws *If restricted, refer person to make an access application under s 30*	☐
Release could possibly compromise government or private interests *Where this applies, or if unsure, refer person to make an access application under s 30*	☐
Processing would be administratively burdensome (more than minor redactions are likely to be made, or request is substantial and would cost agency significant resources to process) or would involve a fee *Where this applies, or if unsure, refer person to make an access application under s 30*	☐
Applicant may wish to apply for external review of the decision *Where this applies, refer person to make a formal access application under s 30*	☐

Where suitable for informal release—available options

Options	Action
Information is already publicly available	☐ consider publicly available information, including Open Access Information ☐ consider options for providing the information to applicant, or to assist them to locate information ☐ consider any feedback on ability to access information
Information can be released under an existing administrative access arrangement	☐ consider all relevant administrative access arrangements and requirements ☐ consider any relevant internal delegations and processes ☐ where relevant, undertake appropriate identity check ☐ make a record of the decision
Information is suitable for ad hoc release	☐ consider relevant legislation (and any restrictions on release) ☐ consider any relevant internal delegations and processes ☐ where relevant, undertake appropriate identity check ☐ make a record of the decision
Information can be released under specific legislation	☐consider relevant legislation and any protocols or processes for release requirements ☐ consider any relevant internal delegations and processes ☐ where relevant, undertake appropriate identity check ☐ make a record of the decision

Attachment B—Setting up administrative access arrangements

Assess suitability for administrative access arrangements

This template can be used by agencies to identify information commonly subject to informal requests and formal access applications and consider whether the information is suitable for an administrative access arrangement.

In completing the template, it is important that FOI staff, relevant line areas and shopfront officers are consulted as possible 'touchpoints' for the public making informal requests and who can advise on:

- the types of information regularly requested—either through informal requests for information or via access applications
- the possible risks in dealing with those requests having regard to secrecy provisions, the extent to which information is complex or which personal or sensitive information might be intertwined with information that might otherwise be released administratively
- whether that information is suitable for an administrative access arrangement and what further action might need to happen to effectively implement that arrangement.

Type of information	Location/responsible line area	Possible risks (and explanation)	Recommendation (and further steps needed)
e.g. Personal information *Correspondence* *Applications* *Reports* *Requests for data/statistics*	*e.g. Human Resources* *Shop front staff* *Policy Team* *Media Unit* *Executive*	*Low* *Medium* *High*	*Suitable / Not suitable* *Guidance to be provided on website* *Delegation instrument to be updated* *Referral protocol required (between FOI and line areas)* *Staff training to be delivered* *Identity check process to be established*

Document and promote administrative access arrangements

Where an agency has identified the categories of information that are suitable for administrative access, any arrangements or protocols for dealing with those requests **must** be documented and agreed to by the relevant areas within the agency.

Agencies should:

- obtain appropriate support for administrative access and a culture of openness and transparency across the agency from senior management and all relevant line areas
- develop and promote clear instructions on what information can be considered via an informal request, versus information that must be considered through a formal access application—and make these instructions clear to agency staff *and* the public

Note: it is important that members of the public can logically navigate to where information about administrative access arrangements is located on the agency website—ideally this information should be published with Open Access Information and information about how to make an access application (see the model website included in *Guideline 1: Open Access Information*).

- develop and promote clear guidance to relevant staff members across the agency (including line areas, shop front staff and FOI teams) on how to deal with requests for particular information so that decision making is consistent and defensible.

Continuously review and maintain administrative access arrangements

Finally, it is important that administrative access arrangements are maintained and routinely reviewed with a view to improving their effectiveness, highlighting opportunities and identifying risks relating to the release of the government held information.

To ensure administrative access arrangements continue to be relevant and useful to the community, agencies should consider feedback from stakeholder meetings and community engagement, and analyse commonly requested information received by frontline staff and FOI teams. Administrative access arrangements should be updated or expanded accordingly.