



OMBUDSMAN AN OFFICER OF
THE ACT LEGISLATIVE ASSEMBLY 

Freedom of Information Guidelines APPENDICES

OPEN ACCESS INFORMATION

OCTOBER 2019

Guideline Number. **1 of 6**

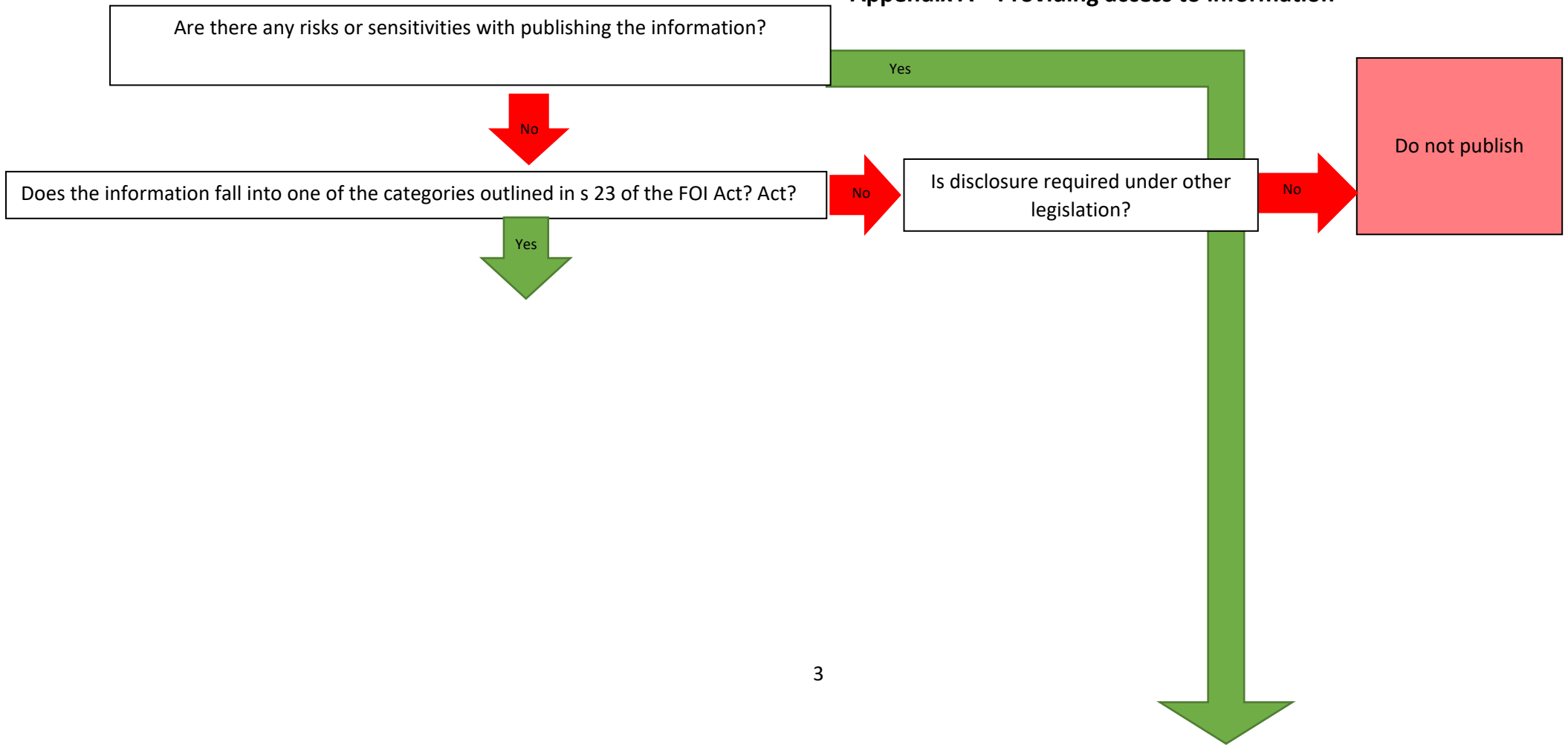
Disclaimer

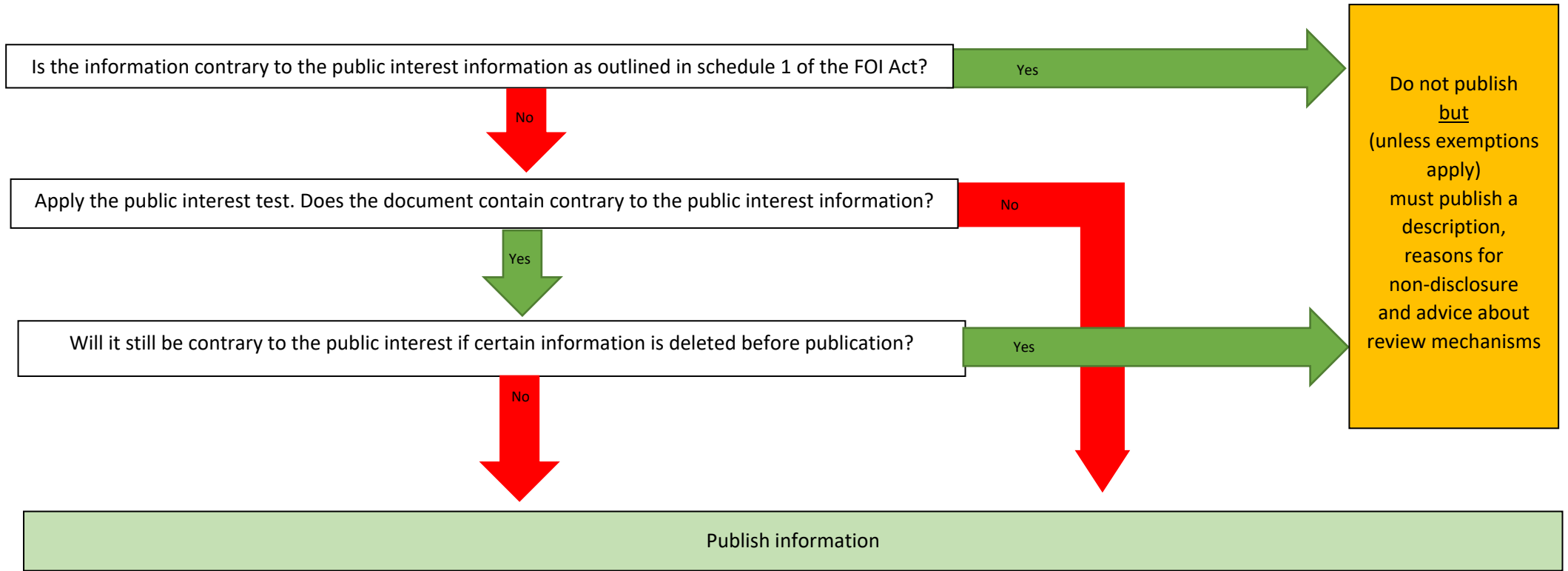
Under s 66 of the *Freedom of Information Act 2016* (FOI Act), the ACT Ombudsman has the function of issuing guidelines about freedom of information ('FOI').

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>.

Appendix A—Providing access to information





Appendix B—Proposed model website approach

Below is template text agencies may wish to use to explain the types of information they hold and how to access it.

Note: It is suggested that information be collapsed under the various headings, so that less information is displayed initially upon viewing the page – as is evident on the similar page on the [ACT Ombudsman website](#).

Accessing information

We are committed to your right to access government information

Every person has a legal right to access ACT Government information. This means our agency proactively releases government information. There are also a number of ways you can request access to information that we have not published. Below we explain what sort of information our agency holds, what we already publish and how you can access other information.

This ACT Ombudsman [brochure](#) also explains how you can access government information in the ACT.

What information do we hold

As the Directorate responsible for [\[summarise functions\]](#), we hold information related to these functions including [\[summarise key information holdings\]](#).

What information is already published

We make a range of information available for access on our website. We recommend you search our website first to see if you can find what you are looking for. You can also check the [Open Access Portal](#).

This includes information we are required to publish under the ACT Open Access Information Scheme - such as:

- functional information about our agency
- documents tabled in the Legislative Assembly
- policy documents
- budgetary papers
- information about government grants
- our disclosure log—which lists information we have released since 1 January 2018 in response to access applications
- a statement about bodies established to advise our agency or Minister, and copies of their reports and recommendations

Information people often look for on our website includes:

- [X](#)
- [X](#)

Requests for information

If you can't find what you are looking for, you can contact us to ask if you can have the information. We have listed below some categories of information and the best process for requesting the information.

| <i>Information requested</i> | <i>Process</i> |
|--|---|
| Access to personal documents we hold about you (for example, copies of application forms previously submitted) | Complete form available at X and submit to X@act.gov.au |
| Access to your employment record (if you are a current or former agency employees) | Complete form available at X and submit to X@act.gov.au |
| XXXX | XXXX |

Where the information you are looking for is not listed above, you can still contact us to request this information informally at X@act.gov.au. Most requests for information, or copies of documents, can be dealt with informally and quickly—a phone call or email may be all that is required.

Note:

- If you are applying for copies of personal information, evidence of identity must be provided.
- If you are seeking information listed below, it is, however, recommended you lodge a formal access application under the *Freedom of Information Act 2016* (FOI Act), as our agency is likely to need to undertake a formal assessment to determine whether or not the release of this information is contrary to the public interest, and/or restrictions under other legislation may apply.

Lodging a formal access application under the ACT *Freedom of Information Act 2016*

If you have spoken to us and still can't find what you are after, you can make a formal access application directly to our agency under the FOI Act. Your request must include:

- enough detail to enable us to identify what information you are looking for
- an email or postal address via which we can contact you
- evidence of your identity (if you are seeking your personal information)
- authority for an agent to act for you (if you have engaged a lawyer or other third party to represent you)

We are generally required to process your request within 20 working days. To ensure timely processing, please:

- provide as much information as you can regarding the information you are looking for
- use our access application [request form](#).

Alternatively, you can send a written request to X@act.gov.au or by post to:

FOI Contact Officer
Branch
Department
Address

Processing of your application

We will tell you within 10 working days after we receive your application that we have received your request and the date it was received. We will also give you an estimate of any charges that apply to your request.

We will give you our decision within 20 working days from the date your application was received, unless that time has been extended.

- If a document contains information about a third party, we will need to consult them and may need to extend the time to give you our decision by another 15 working days.
- We may also seek your agreement to extend the time if your request is complex.
- We can also seek a further extension of 15 working days from the ACT Ombudsman.

Will I have to pay?

There is no application fee for an FOI request. There are no processing charges for requests for access to documents containing only personal information about you. However, processing charges may apply to other requests. We will tell you if this is the case. Where this occurs, you can ask for the charge to be waived or reduced for any reason, including financial hardship or on the grounds of public interest. If you do so, you should explain your reasons and you may need to provide some evidence.

Seeking an amendment to personal information

If you believe our agency holds information about you that is incomplete, incorrect or out-of-date, under the FOI Act, you can also seek to have this information amended.

You can send a written request for amendment to X@act.gov.au or by post to:

FOI Contact Officer
Branch
Department
Address

Your request must:

- include enough detail so we can identify the information to be amended
- state how it is incomplete, incorrect, out-of-date or misleading
- state the amendments considered necessary
- include an email or postal address via which we can contact you.

We will process your request within 20 working days. If we are going to refuse your request, we will contact you and give you the opportunity to comment and/or provide further information before we do.

ACT Ombudsman review and complaints investigations

When we have made a decision about your access application or a request to amend your personal information, we will send you a letter explaining our decision and your review and appeal rights. If you are not satisfied with our decision, you can ask the ACT Ombudsman to review it.

You can also make a complaint to the ACT Ombudsman about our actions, or failure to take action, in relation to any of our functions under the FOI Act.

More information is available on the website of the [ACT Ombudsman](#).

Appendix C—template decision for access refused

Open Access Information release outcome decision: Access Refused

Document Category: Choose an item.

Title of document: [insert name of document]

Description of the information: [insert brief description of the document]

Grounds for decision to refuse access:

It was decided that access to this information would **not** be made available because it is taken to be contrary to the public interest information under Schedule 1 of the *Freedom of Information Act 2016* (the FOI Act).

The relevant grounds under Schedule 1 of the FOI Act and the reasons why they were applicable in this case are outlined below:

- The information is considered to be [insert type of information] under Schedule 1.X because [insert short summary of reasons why the decision-maker found this ground relevant].

OR

It was decided this information would not be disclosed because, on balance, it would be contrary to the public interest test set out in s 17 of the FOI Act.

Factors favouring disclosure of this information, as outlined in Schedule 2 included:

- [reference relevant factor and reason **why** relevant]

Factors favouring non-disclosure of this information, as outlined in Schedule 2 included:

- [reference relevant factor and reason **why** relevant]

On balance, I consider the information to be contrary to the public interest information, because [insert reasons why the decision-maker has made this assessment, including how the factors were balanced].

If disclosed, I consider the harm to the public interest that can reasonably be expected to occur could include: [insert harm the decision-maker has assessed as likely to occur].

Review rights:

Ombudsman review

The decision to withhold this information is a reviewable decision as identified in Schedule 3 of the FOI Act.

You have the right to seek Ombudsman review of this decision. Under s 74 of the FOI Act, an application for Ombudsman review must be made within 20 working days from the day this decision was published on the agency's website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the ACT Ombudsman at:

The ACT Ombudsman
Attention: ACT Strategy and FOI Section
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under s 84 of the FOI Act, if a decision is made under s 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<https://www.acat.act.gov.au/>

Authorised by: [insert name of decision-maker]

Appendix D—template decision for access granted**Open Access Information release outcome decision:
Partial access granted****Document Category:** Choose an item.**Title of document:** [insert name of document]**Description of the information:** [insert brief description of the document]

The original record of this document contained information the release of which would be contrary to the public interest. This information has been deleted from this publicly available copy of the document for the reasons outlined below.

Grounds for decision to withhold disclosure:

Certain information has been redacted before the publication of this document, as marked, because it is taken to be contrary to the public interest information under Schedule 1 of the *Freedom of Information Act 2016* (FOI Act).

The relevant grounds under Schedule 1 of the FOI Act and the reasons why they were applicable in this case are outlined below:

- The information is considered to be [insert type of information] under Schedule 1.X because [insert short summary of reasons why the decision-maker found this ground relevant].

OR

It was decided this information would not be disclosed because, on balance, it would be contrary to the public interest test set out in s 17 of the FOI Act.

Factors favouring disclosure of this information, as outlined in Schedule 2 included:

- [reference relevant factor and reason **why** relevant]

Factors favouring non-disclosure of this information, as outlined in Schedule 2 included:

- [reference relevant factor and reason **why** relevant]

On balance, I consider the information to be contrary to the public interest information, because [insert reasons why the decision-maker has made this assessment, including how the factors were balanced].

If disclosed, I consider the harm to the public interest that can reasonably be expected to occur could include: [insert harm the decision-maker has assessed as likely to occur].

Review rights:*Ombudsman review*

The decision to withhold this information is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this decision. Under s 74 of the FOI Act, an application for Ombudsman review must be made within 20 working days from the day this decision was published on the agency's website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the ACT Ombudsman at:

The ACT Ombudsman
Attention: ACT Strategy and FOI Section
GPO Box 442
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ACT Civil and Administrative Tribunal (ACAT) review

Under s 84 of the FOI Act, if a decision is made under s 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<https://www.acat.act.gov.au/>

Authorised by: [insert name of decision-maker]

Appendix E—Suggested template for disclosure log

| Date of publication | Access application | Information requested | Decision | Information released | Fees (paid or waived) | Time (hours) spent on application | Person(s) who may apply to the Ombudsman for review | Review status |
|---------------------|--|---|--|--|---|-----------------------------------|---|---|
| X/X/2019 | <i>[insert agency reference number of access application with link to application – note: personal details or applicant should be removed]</i> | <i>[insert high level summary of type of information requested]</i> | Choose an item. <i>[insert link to decision notice]</i> | <i>[insert links to the information that was released – including any information that was provided subsequently under s 36 or as a result of a review decision]</i> | Choose an item. <i>[if fees paid/waived details of amount must also be provided]</i> | X hours. | Choose an item. | Choose an item. <i>[links to Ombudsman/ ACAT decision should be provided where relevant]</i> |
| X/X/2019 | | | | | | | | |

Application for review of decisions on access applications may be made in writing to the ACT Ombudsman. To do so, applicants or affected persons should write to the Ombudsman requesting a review:

- by email to: actfoi@ombudsman.gov.au
- by post to: GPO Box 442, Canberra ACT 2601.

Note: In most cases, you must apply for an Ombudsman review within 20 working days after the day that notice of the decision was published on the above disclosure log.

A further option for review of decisions on access applications may be available under the *Administrative Decisions (Judicial Review) Act 1989*. Advice about pursuing this option may be obtained from a qualified legal practitioner.

Appendix F—Open Access Information Scheme (OAIS) self-assessment checklist

PART A: MANDATORY FOI ACT REQUIREMENTS (CHECK BOX WHERE IT APPLIES TO YOUR AGENCY)

| Information Type | Documents published? | Documents are easy to locate & meet accessibility requirements? | Reviewed for accuracy within the last three months? | Public interest assessment completed where access withheld? | Reasons for withholding access published? |
|-------------------------------------|--------------------------|---|---|---|---|
| Functional information | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Policy documents | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Budgetary papers | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Grant information | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Disclosure log | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Statement regarding advisory bodies | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reports/recommendations by bodies | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Briefs that are 5+ years old | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

PART B: COMPLYING WITH THE SPIRIT OF THE FOI ACT

(CHECK BOX WHERE APPLIES TO YOUR AGENCY)

- My agency has a published OAIS strategy in place which has been approved and has buy-in from our senior leadership
- Our strategy is reviewed annually with improvements made based on lessons learnt
- Records management arrangements and/or an information management framework is in place to support this strategy
- My agency publishes additional (non-mandatory) information on its website/the OAIS website
- My agency takes a pro-disclosure approach
- Our staff are trained in open access requirements
 - This includes staff outside of corporate areas
- Staff are encouraged to consider open access considerations when creating documents
- Our website makes it clear what information can be requested from the agency without a formal access application
- We have a process in place to ensure that information that is unnecessary/of insignificant interest is not published on the OAIS website
- We have a compliance process in place to monitor the implementation of our OAIS strategy.