



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

FOI Reform

Reforms to the *Freedom of Information Act 1982* (the FOI Act) and the passage of the *Australian Information Commissioner Act 2010* introduce substantial changes to FOI processing and publication of information. FOI requests lodged on or after 1 November 2010 are subject to the changes outlined below:

Establishment of the Office of the Australian Information Commissioner

The newly established Office of the Australian Information Commissioner is headed by the Australian Information Commissioner (AIC). It includes a Privacy Commissioner and an FOI Commissioner who will perform particular functions including investigating complaints and undertaking reviews of FOI decisions.

Requirements for a valid FOI request

- Applicants must state in their request that the application is for the purpose of the FOI Act.
- Applicants must give details of how correspondence under the FOI Act may be sent to them (for example, by providing an address to which notices may be sent electronically).
- Applicants can now lodge FOI requests electronically to an address specified by the agency. Currently in the Tribunals, a fax number is provided. In due course applicants will also be able to lodge FOI requests by email.
- From 1 November, access requests may be made using the revised Tribunal form *MR3 FOI request form*. The form is available via the [Forms and Brochures](#) button on our website.

Processing times

The Act provides that an agency has 30 days to make an FOI decision. This can be extended:

- by written agreement of the applicant for a period of up to 30 days;
- by a further 30 days if consultation is required with a third party person, business, state government or foreign entity; or
- by the AIC for large or complex requests.

Review process

- An applicant or an affected third party who disagrees with a decision on an FOI request may apply to the AIC for review and is not required to apply for internal review first.
- If an agency fails to make a decision under the FOI Act within the timeframe, an applicant may apply to the AIC for review.

Fees and charges

- No fee is required for FOI requests, internal review or AIC review.
- Applicants will not be charged for the processing of requests for access to personal information. For all other applications, the first hour of decision making time will be free of charge. For applications made by journalists and not-for-profit community groups, the first five hours of the decision making time will be free of charge.

Exemptions from disclosure

A new concept of ‘conditional exemptions’ has been introduced. These exemptions, which include personal privacy, are subject to a revised public interest test. The new test is weighted in favour of disclosing a ‘conditionally exempt’ document unless the disclosure is not in the public interest.

Other changes

In addition to the above changes, the reforms to the FOI Act also introduce the capacity to apply to the AIC to declare a person to be a vexatious applicant; the provision to include the right for access to documents held by contractors; and an Information Publication Scheme.

Need more information?

Please do not hesitate to call one of the offices of the Migration Review and Refugee Review Tribunals for more information on lodging requests for access to documents under the FOI Act.

New South Wales Registry
Phone: 02) 9276 5000
Fax: 02) 9276 5599
Information line: 1300 361 969

Victoria Registry
Phone: 03) 8600 5900
Fax: 03) 8600 5801
Information line: 1300 361 969

Further information and guidance can also be obtained from the Office of the Australian Information Commissioner:

- phone: 1300 363 992
- email: enquiries@oaic.gov.au
- website: www.oaic.gov.au