



EDO-NQ FACTSHEET SERIES

FREEDOM OF INFORMATION

under Commonwealth *and* Queensland Law

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FREEDOM OF INFORMATION FACTSHEET

This factsheet is intended as a plain English guide to a particular area of law. Whilst all care has been taken in its preparation, it is not a substitute for legal advice as legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your particular circumstances you should contact the EDO or your solicitor.

1. Summary of the Freedom of Information Laws

What is Freedom of Information?

Freedom of Information ("FOI") laws, in all states and nationally, provide the public with a general, legally enforceable right of access to information held by those governments.

In Queensland, relevant FOI laws are the *Freedom of Information Act 1992* (Qld) ("FOI Act (Qld)"), the *Freedom of Information Act 1982* (Cth) ("FOI Act (Cth)"), and the regulations to those Acts.

In summary, State and national FOI legislation:

- Create a legally enforceable right of access to documents held by Ministers, government departments and public/statutory authorities (government departments and statutory authorities will be referred to as government agencies)¹;
- Establish a system for individuals to make sure that information in government documents about their personal affairs is accurate and not misleading; and
- Impose obligations on government agencies to publish and make available certain information about the agency².

You do not have to establish a special interest or reason for requesting documents to take advantage of FOI legislation but information on private or business affairs of other community members is only accessible in certain circumstances³.

FOI legislation does not apply to all government bodies across the board. For example, FOI legislation does not apply to documents held by the Australian Security Intelligence Organisation (ASIO), courts and those working under parliamentary, judicial and governor-general or governor-general-in-Council office or services. It equally exempts those holding Treasury

¹ s.21: FOI Act (Qld); s. 11 FOI Act (Cth)

² s.18: FOI Act (Qld); s. 8 FOI Act (Cth)

³ s.45(1): FOI Act (Qld); s. 27 FOI Act (Cth)

commercial interests, adult guardianship investigatory or audit interests, health rights conciliatory interests and performance-related information including educational test results – all held in confidence.

Publication of Information by Government Agencies

FOI legislation requires government agencies to publish and make publicly available certain kinds of information about the:

- way they are organised;
- functions they have;
- kinds of decisions they make;
- arrangements they have for public involvement in their work;
- documents they hold and how you can see them; and
- rules and practices used in making decisions affecting the community⁴.

This is quite separate from their obligations to respond to an FOI access request from a member of the public.

Under the FOI Act (Cth), Federal government agencies must publish FOI Statements⁵ and under the State legislation Queensland government agencies must publish a document known as a Statement of Affairs⁶. These documents must be updated annually.

Government agencies are also required to publish any policy documents they create⁷. An agency's policy documents are of particular interest where the agency is responsible for granting licenses or permits of various kinds or for providing welfare benefits. In that respect, the policy documents may consist of manuals, interpretations, rules, guidelines, practices or precedents. For example, the Commonwealth Department of Social Security makes available for inspection and purchase by the public the manuals used by its officers when making a decision about a person's eligibility for particular benefits. Members of the public have a right to inspect these documents at no charge, but obtaining a copy of either document may involve a fee.

2. Outline of Legally Accessible Documents

FOI legislation creates a legally enforceable right of access to certain government documents.⁸

The right of access is to "documents" so a person cannot use an FOI request as a method of compelling a government agency to simply answer questions or provide information that it does not keep in a documentary form.

⁴ s.18: FOI Act (Qld); s. 8: FOI Act (Cth)

⁵ ss. 8 & 9(1): FOI Act (Cth)

⁶ ss.18 & 19(1)(a): FOI Act (Qld)

⁷ s.19(1)(b): FOI Act (Qld); s. 9: FOI Act (Cth)

⁸ s.21: FOI Act (Qld); s. 11 FOI Act (Cth)

The definition of “document” is broad and includes:

- written documents;
- computer disks;
- video tapes;
- photographs;
- maps; and
- e-mails⁹.

3. Limitations on Legally Accessible Documents

There are some documents that are not available under FOI legislation.

a. Old Documents

The FOI Act (Cth) provides limits on FOI requests for old documents, namely documents which came into existence more than 5 years before the commencement of the FOI legislation (i.e. 1977)¹⁰.

There are no such exemptions under the FOI Act (Qld). However, government agencies and Ministers are allowed greater time to process applications for old documents.

b. Documents Already Publicly Available

You cannot use FOI to access documents that are already publicly available¹¹, including those available for a fee under other legislation or administrative process. You cannot access documents that are reasonably available under the *Public Records Act* (Qld) 2002 or in a public library or documents that have been stored for preservation or safe custody in the Qld state archives and is a copy of a document of an agency.

c. Exempt Documents

Under both Queensland and Commonwealth FOI legislation, government agencies and Ministers may refuse access to certain categories of documents known as exempt documents¹². The categories in each Act are fairly similar.

Exempt documents are documents that Parliament believes should normally be kept confidential to protect essential public interest or the private or business affairs of other individuals.

⁹ s.7: FOI Act (Qld); s.4: FOI Act (Cth)

¹⁰ s.12(2): FOI Act (Cth)

¹¹ s.22: FOI Act (Qld); s. 12: FOI Act (Cth)

¹² s.28: FOI Act (Qld); s.11: FOI Act (Cth)

COMMONWEALTH

Some of the exemptions under the FOI Act (Cth) follow:

- A. Documents affecting national security, defence or international relations¹³
- B. Documents affecting relations with States¹⁴
- C. Cabinet documents¹⁵ and Executive Council documents¹⁶
- D. Internal working documents¹⁷
- E. Documents affecting enforcement of law and protection of public safety¹⁸
- F. Documents to which secrecy provisions of certain enactments apply¹⁹
- G. Documents affecting financial or property interests of the Commonwealth²⁰
- H. Documents concerning certain operations of agencies²¹
- I. Documents affecting personal privacy²²
- J. Documents subject to legal professional privilege²³
- K. Documents relating to business affairs etc.²⁴
- L. Documents relating to research²⁵
- M. Documents affecting national economy²⁶
- N. Documents containing material obtained in confidence²⁷
- O. Documents disclosure of which would be contempt of Parliament or contempt of court²⁸
- P. Certain documents arising out of companies and securities legislation²⁹

¹³ s.33: FOI Act (Cth)

¹⁴ s.33A: FOI Act (Cth)

¹⁵ s.34: FOI Act (Cth)

¹⁶ s.35: FOI Act (Cth)

¹⁷ s.36: FOI Act (Cth)

¹⁸ s.37: FOI Act (Cth)

¹⁹ s.38: FOI Act (Cth)

²⁰ s.39: FOI Act (Cth)

²¹ s.40: FOI Act (Cth)

²² s.41: FOI Act (Cth)

²³ s.42: FOI Act (Cth)

²⁴ s.43: FOI Act (Cth)

²⁵ s.43A: FOI Act (Cth)

²⁶ s.44: FOI Act (Cth)

²⁷ s.45: FOI Act (Cth)

²⁸ s.46: FOI Act (Cth)

²⁹ s.47: FOI Act (Cth)

Disagree with an Exemption???

If you disagree with an agency's claims that a document is exempt, you are entitled to have an independent body decide whether or not you should see the documents³⁰. Refer to the review and appeals section below.

QUEENSLAND

Some of the exemptions under the FOI Act (Qld) follow:

A. Matter diverting the resources of an agency or interfering with the functions of a Minister

An agency or Minister may refuse to deal with your application where they believe the work involved would: –

1. substantially and unreasonably divert the resources of the agency; or
2. interfere substantially or unreasonably with the performance of the Minister³¹.

The agency or Minister can only make this decision after considering the number and volume of documents requested and the difficulty associated in identifying, locating or collating the documents³².

Before refusal the agency or Minister must give the applicant written notice that:

- o states an intention to refuse access;
- o advises that the applicant may consult with a specified officer, with a view to modifying the application (for a consultation period of 21 days after the applicant is given notice);
- o provides the applicant a reasonable opportunity to consult with the officer;
- o provides the applicant, as far as reasonably practicable, with information to assist the making of an application in a form that would allow the application to be processed³³.

If the applicant fails to consult after being given a notice, then the application will be taken to have been withdrawn³⁴. The applicant is also permitted, after consultation, to give the officer written notice, either confirming or altering the application³⁵.

³⁰ Part 5: FOI Act (Qld)

³¹ s.29(1): FOI Act (Qld)

³² s.29(2): FOI Act (Qld)

³³ s.29A(1): FOI Act (Qld)

³⁴ s.29A(2): FOI Act (Qld)

³⁵ s.29A(3): FOI Act (Qld)

- B. *Cabinet and Executive Council Matter*³⁶
- C. *Matter affecting relations with other governments*³⁷
- D. *Matter relating to investigations by the Ombudsman or audits by Auditor General*³⁸
- E. *Matter relating to the deliberative processes*³⁹
- F. *Matter relating to law enforcement or public safety*⁴⁰
- G. *Matter affecting legal proceedings*⁴¹
- H. *Matter affecting personal affairs*⁴²
- I. *Matter relating to trade secrets, business affairs and research*⁴³
- J. *Matter communicated in confidence*⁴⁴
- K. *Matter affecting the economy of State*⁴⁵
- L. *Matter to which secrecy provisions of enactments apply*⁴⁶
- M. *Matter affecting financial or property interests*⁴⁷
- N. *Matter which, if disclosed, would be contempt of Parliament or contempt of Court*⁴⁸

If an agency has acted outside the limits of the law on matters that may be exempt, then there would be good argument that the disclosure of these matters is/was, on balance, in the public interest.

Disagree with an Exemption???

If you disagree with an agency's claims that a document is exempt, you are entitled to have an independent body decide whether or not you should see the documents⁴⁹. Refer to the review and appeals section below.

³⁶ ss.36 & 37: FOI Act (Qld)

³⁷ S.38: FOI Act (Qld)

³⁸ s.39: FOI Act (Qld)

³⁹ s.41: FOI Act (Qld)

⁴⁰ s.42: FOI Act (Qld)

⁴¹ s.43: FOI Act (Qld)

⁴² s.44: FOI Act (Qld)

⁴³ s.45: FOI Act (Qld)

⁴⁴ s.46: FOI Act (Qld)

⁴⁵ s.47: FOI Act (Qld)

⁴⁶ s.48: FOI Act (Qld)

⁴⁷ s.49: FOI Act (Qld)

⁴⁸ s.50: FOI Act (Qld)

⁴⁹ Part 5: FOI Act (Qld)

4. Making an FOI Application

FOI access requests must be in writing and be lodged with the relevant government body or Minister holding the documents⁵⁰.

So, after identifying the document you want and establishing the government agency or Minister holding the document, you need to make a written request, usually to the FOI Coordinator of the agency. Some agencies, for example the Department of Natural Resources, provide special forms, but you do not have to use these.

Your application must –

- be in writing⁵¹;
- specify that it is made under the Queensland or Commonwealth FOI Act i.e. "I am seeking this information in accordance with the Freedom of Information Act 1992 (Qld).";
- include the prescribed fee⁵²;
- include an address for return mail⁵³; and
- Include enough information about the documents sought to enable the agency to identify them⁵⁴.

In your application you are able to specify the form of access you want (for example, photocopies, inspection, transcript of a recording), but do not have to.

If you *do not* specify the form of access you would like, then the relevant government agency or department may choose to give you access to the requested documents in a number of different forms⁵⁵. If you *do* specify the form of access that you would like, then the relevant government department must provide access in that manner⁵⁶.

5. Procedure for Dealing with FOI application

Under the FOI Act (Cth) and the FOI Act (Qld), government agencies or Ministers are obliged to:

- acknowledge receipt of an FOI application in writing with 14 days of receipt⁵⁷ and if transferring the application (in full or in part) to another agency, inform the applicant of that fact⁵⁸;

⁵⁰ s.25: FOI Act (Qld)

⁵¹ s.25(2)(a): FOI Act (Qld); s.15(2)(a): FOI Act (Cth)

⁵² s.35B(2): FOI Act (Qld); s.15(2)(e): FOI Act (Cth)

⁵³ s.25(2)(c): FOI Act (Qld); s.15(2)(c): FOI Act (Cth)

⁵⁴ s.25(2)(a): FOI Act (Qld); s.15(2)(b): FOI Act (Cth)

⁵⁵ s.30(1): FOI Act (Qld); s.20(1): FOI Act (Cth)

⁵⁶ s.30(2): FOI Act (Qld); s.20(2): FOI Act (Cth)

⁵⁷ s.27(1): FOI Act (Qld); s.15(5)(a) FOI Act (Cth)

⁵⁸ s.26(3)(b): FOI Act (Qld); s.16(4): FOI Act (Cth)

- retrieve all documents relevant to the request unless they are exempt⁵⁹;
- consult with any affected parties (or other government agencies) whose rights may be affected by disclosure⁶⁰; and
- reach a decision and inform the FOI applicant within the time set out in the legislation (any decision to refuse access must be accompanied by reasons)⁶¹.

6. Timeframes for processing applications

COMMONWEALTH	
Type of Application	Timing
FOI personal application	Acknowledgment within 14 days (s. 15(5)(a): FOI Act (Cth)) Agency must deal with request within 30 days (s. 15(5)(b): FOI Act (Cth))
FOI non-personal application	Acknowledgment within 14 days (s. 15(5)(a): FOI Act (Cth)) Agency must deal with request within 30 days (s. 15(5)(b): FOI Act (Cth))
3rd Party involved	Extra 30 day extension (s. 15(6)(a): FOI Act (Cth))

Note: If the agency or Minister does not make a decision on the FOI application within the 30 day time limit then the agency or Minister is deemed to have made a decision refusing the access applied for⁶².

QUEENSLAND	
Type of Application	Timing
FOI personal application	Acknowledgment within 14 days. (s. 27(1): FOI Act (Qld)) Decision within "an appropriate period" i.e. 45 days (s. 26(5) & (7): FOI Act (Qld))
FOI non-personal application for documents created <i>after</i> 1988	Acknowledgment within 14 days. (s. 27(1): FOI Act (Qld)) Decision within "an appropriate period" i.e. 45 days (s. 27(7)(b): FOI Act (Qld))
FOI non-personal application for documents created <i>before</i> 1988	Acknowledgment within 14 days. (s. 27(1): FOI Act (Qld)) Decision within "an appropriate period" i.e. 60 days (s. 27(7)(a): FOI Act (Qld))
3rd Party involved	Extra 15 day extension (s. 27(5)(b): FOI Act (Qld))

⁵⁹ s.21, 22, 30 & 31 FOI Act (Qld) ; ss 11, 20 & 21 FOI Act (Cth)

⁶⁰ s.51: FOI Act (Qld); s. 27A: FOI Act (Cth)

⁶¹ ss. 27(6) & 34: FOI Act (Qld); ss. 15 & 26: FOI Act (Cth)

⁶² s.56(1): FOI Act (Cth)

7. Third party involvement

Where your request relates to documents that substantially affect the interests of a third person that person must be consulted prior to the release of the documents⁶³. Such a situation would arise if, for example, you were to request documents relating to government plans to construct a highway through neighbouring property which might contain information affecting the interests of the owner of that property, such as details of confidential negotiations between that person and the government regarding compensation.

The third party may object to the release of the documents but the agency can decide to override any objection⁶⁴. The third party may appeal such decision or you may appeal if the agency agrees with the third party and refuses to release the documents⁶⁵ (see review and appeals below). The involvement of a third party will extend the time frames for deciding the application under both the State and Commonwealth systems. For an application to the Commonwealth, the time period is extended by 30 days⁶⁶, and for an application to the State of Queensland the time period is extended by 15 days⁶⁷.

8. How is the information provided?

The information is to be provided in the form requested in your FOI application⁶⁸. If you *don't* specify the form of access you would like, then the relevant government agency or department may choose the form of access you may have to the requested documents⁶⁹.

Essentially there are two options⁷⁰:

- Copies of the document, tape, transcript etc; or
- An opportunity to inspect documents, tapes, transcripts etc which you may select for copying.

Access to a particular form requested may be refused where it would unreasonably interfere with the operations of an agency, cause detriment to the preservation of the document or infringe copyright owned by another party⁷¹.

⁶³ s.51: FOI Act (Qld); s.27A: FOI Act (Cth)

⁶⁴ s.51(2): FOI Act (Qld); s.27A: FOI Act (Cth)

⁶⁵ s.52: FOI Act (Qld); s.54: FOI Act (Cth)

⁶⁶ s.15(6)(a): FOI Act (Cth)

⁶⁷ s.27(5)(b): FOI Act (Qld)

⁶⁸ s.30(2): FOI Act (Qld); s.20: FOI Act (Cth)

⁶⁹ s.30(1): FOI Act (Qld); s.20: FOI Act (Cth)

⁷⁰ s.30(1): FOI Act (Qld); s.20(1): FOI Act (Cth)

⁷¹ s.30(3): FOI Act (Qld); s.20(3): FOI Act (Cth)

9. Cost of FOI Requests

o Application Fees

COMMONWEALTH

For FOI requests lodged with federal government bodies the initial FOI access application must be accompanied by a fee of \$30⁷². Where an FOI applicant is unhappy with the initial decision an internal review is available⁷³; a fee of \$40 applies for the review⁷⁴.

QUEENSLAND

For FOI requests lodged with a Qld government agency or Minister, the application fee is \$36⁷⁵ unless the documents requested relate to the "personal affairs" of the FOI applicant, in which case there is no application fee⁷⁶.

"Personal affairs" basically means information about the private or personal aspects of a person's life, including information about their health, their personal relationships with others and their domestic or living arrangements. It would also include information which would identify a person, such as their name, address, date of birth, religious or political affiliations and their personal financial arrangements. On the other hand, personal affairs would not normally include information about a person's business, professional or workplace activities, although employment related activities are not always clear cut.

o Fees for searching and supervising access

COMMONWEALTH

The Schedule in the FOI Regulations (Cth) provides the applicable charges for a request for access to a document and provision of access to a document to which a request relates as follows:

Schedule

Part I Charges applicable in respect of a request for access to a document

Item No.	Charge	Amount or Rate of Charge
2	Where the request relates to a document other than a document in relation to which a charge is applicable under item 2A or 3 -- a charge in respect of the time spent by the relevant agency or the relevant Minister in searching for or retrieving the document	\$15.00 per hour
2A	If the request relates to a document that contains personal information about the applicant -- a charge for the time spent by the agency or the Minister in searching	\$15 for each hour, to a

⁷² reg.5(a): *Freedom of Information (Fees and Charges) Regulations* (Cth) ("FOI Regs (Cth)")

⁷³ s.54: FOI Act (Cth)

⁷⁴ reg.5(b): FOI Regs (Cth)

⁷⁵ reg.3: *Freedom of Information Regulations 2006* (Qld) ("FOI Regs. (Qld)")

⁷⁶ reg.4: FOI Regs (Qld)

	for or retrieving the document	max \$30
3	Where the request, being a request made to an agency, is in respect of information that is not available in discrete form in documents of the agency -- a charge in respect of the production of a document containing the information in discrete form by the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information	an amount not exceeding the actual cost incurred by the agency in producing the document
4	Where: (a) the request relates to a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form; and (b) for the purpose of making a decision on the request, a written transcript of the words recorded or contained in the document is produced, a charge in respect of the production of such a written transcript	\$4.40 per page of transcript
5	A charge in respect of the time that is spent (other than on an application under section 54 of the Act for the review of a decision) by an agency or Minister in deciding whether to grant, refuse or defer access to the document or to grant access to a copy of the document with deletions, including time spent: (a) in examining the document; (b) in consultation with any person or body; (c) in making a copy with deletions; or (d) in notifying any interim or final decision on the request	\$20.00 per hour
6	If the document referred to in item 5 contains personal information about the applicant -- a charge for the time that is spent in deciding whether to grant, refuse or defer access to the document or to grant access to a copy of the document with deletions	\$20 for each hour, to a maximum charge of \$40

Part II Charges applicable in respect of the provision of access to a document to which a request relates

<i>Item No.</i>	<i>Charge</i>	<i>Amount or Rate of Charge</i>
1	Where access to the document to which the request relates is given (a) in the form of an opportunity to inspect the document under the supervision of an officer; or (b) in the case of a document that is an article or thing from which sounds or visual images are capable of being produced -- in the form of arrangements for the applicant to hear or view those sounds or visual images under the supervision of an officer, a charge in respect of the period during which the officer supervises the inspection, hearing or viewing, as the case may be	if the period does not exceed half an hour -- \$6.25 if the period exceeds half an hour, for each half-hour, and any period not exceeding half an hour, included in the period -- \$6.25
2	Where the request relates to a written document and access to the document is given in the form of the provision of a photocopy of the document -- a charge in respect of the number of pages of photocopy provided to the applicant	10 cents per page
3	Where the request relates to a written document and access to the document is given in the form of the provision of a copy (other than a photocopy) of the document -- a charge in respect of the number of pages of copy provided to the applicant	\$4.40 per page
4	Where (a) the request, being a request made to an agency, is in respect of information (in this item referred to as the 'relevant information') that is available in discrete form in a document produced (whether for the purposes of the request or not) by the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; (b) deletions are made from the document before access to it is given to the applicant; and (c) it is not reasonably practicable to make these deletions otherwise than by the use of a computer or other equipment referred to in paragraph (a), a charge in respect of the production by the computer or other equipment of a copy of the document with those deletions	an amount not exceeding the actual costs incurred by the agency in producing such a copy of the document
4A	A charge for the production by an agency of a copy of a document in the form of a computer tape or a computer disk	an amount that does not exceed the actual costs incurred by the agency in producing the copy of the document
5	Where (a) the request relates to a document that is an article or thing from which sounds or visual images are capable of being produced; and (b) access to the document is given in the form of arrangements for the applicant to hear or view those sounds or visual images, a charge in respect of the arrangements so made other than any arrangements in respect of which a charge is applicable under Item 1.	an amount not exceeding the actual costs incurred by the relevant agency or Minister in respect of those arrangements

6	<p>Where</p> <p>(a) the request relates to a document that is an article or thing from which sounds or visual images are capable of being produced; and</p> <p>(b) access is given in the form of the provision of a copy of the document, a charge in respect of the production of the copy so provided</p>	<p>an amount not exceeding the actual costs (including, where applicable, the cost of any tape, film or other article or thing provided) incurred by the relevant agency or Minister in producing the copy</p>
7	<p>Where</p> <p>(a) the request relates to a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form;</p> <p>(b) access is given in the form of the provision of a written transcript (with or without deletions) of the words recorded or contained in the document; and</p> <p>(c) the applicant has not paid, or is not liable to pay, as a charge in respect of the request for access to the document, a charge in respect of the production of such a written transcript, a charge in respect of the production of that written transcript</p>	<p>\$4.40 per page of transcript</p>
8	<p>Where</p> <p>(a) access to the document to which the request relates is to be given in the form of the provision of a copy of the document; and</p> <p>(b) the copy so provided is, at the request of the applicant, to be sent by post or delivered to him at a place other than an Information Access Office,</p> <p>a charge in respect of the posting or delivery of the copy</p>	<p>an amount not exceeding the cost of postage or delivery</p>

o **Written Notice Regarding Fees**

At the Commonwealth level, if an agency or Minister considers a processing charge or access charge is payable in relation to an application, the agency or Minister must give the applicant a written notice advising the following⁷⁷:

- o The applicant is liable for a charge
- o What the preliminary assessment of the charge is
- o What the basis is for making that preliminary assessment
- o That the applicant may contend that the charge has been wrongly assessed, or should be reduced or waived

⁷⁷ s.29(1) & (2): FOI Act (Cth)

- The matters which the agency or Minister must consider when deciding whether or not to reduce, or not impose, the charge
- Any deposit payable by the applicant (The relevant agency/Minister may require the applicant to pay a deposit of 25% of the total charge)
- That the applicant must do one of the following within 30 days (or within some other time period which the agency or Minister allows):
 - ✍ Give notice that the applicant agrees to pay the charge;
 - ✍ Give notice that the applicant contends that the charge has been wrongly assessed, or should be reduced or waived, and the applicant's reasons for those contentions;
 - ✍ Give notice that the applicant withdraws the FOI request.
- That the application will be taken to have been withdrawn if the applicant does not do one of those things within the relevant time period.

The agency or Minister may decide to remit application fees in certain circumstances.⁷⁸

○ **Contesting a Charge**

An applicant has 30 days (or a further period which the agency or Minister allows) to object to the preliminary assessment of charges on an FOI application⁷⁹.

If the preliminary assessment of charges is contested, the agency or Minister must:

1. Make a decision on the amount of the charge, and advise the applicant of the decision, within 30 days of receiving the objection⁸⁰;
2. Take the following into account when making that decision⁸¹:
 - a. whether the payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and
 - b. whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.

Notes:

1. *If the agency or Minister doesn't make a decision on an objection to charges and advise the applicant within 30 days after receiving the objection then the agency or Minister is deemed to have made a decision that the charge to be paid is the original charge (the charge which was contested)*⁸².
2. *If the agency or Minister rejects an applicant's contention about the assessment of charges, then the agency or Minister must give the applicant written notice of the decision and of the reasons for it.*⁸³

⁷⁸ s.30A: FOI Act (Cth)

⁷⁹ s.29(1)(f) & (4): FOI Act (Cth)

⁸⁰ s.29(6): FOI Act (Cth)

⁸¹ s.29(5): FOI Act (Cth)

⁸² s.29(7): FOI Act (Cth)

⁸³ s.29(8): FOI Act (Cth)

QUEENSLAND

Charge	Amount or Rate of Charge	Section/Regulation
Application fee for access to a document (where the document(s) to which access has been requested do not relate to the applicant's personal affairs)	\$36.00	Ss.7 & 35B(2): FOI Act (Qld) Reg. 3: FOI Regs (Qld)
Charge for time spent by an agency or Minister in searching for or retrieving a document.	\$5.60 for each 15 minutes or part of 15 minutes	S.4: FOI Act (Qld) Schedule, Part 1, Item 1: FOI Regs (Qld)
Charge for time spent by an agency or Minister in making, or doing things related to making, a decision on an application for access	\$5.60 for each 15 minutes or part of 15 minutes	S.4: FOI Act (Qld) Schedule, Part 2, Item 1: FOI Regs (Qld)
Charge for giving access to a written document by providing a black and white photocopy of the document in A4 size	\$0.20 for each page	S.4: FOI Act (Qld) Schedule, Part 2, Item 2: FOI Regs (Qld)
Charge for giving access to a document other than by: 1. Inspection; or 2. providing a black and white photocopy of the document in A4 size.	An amount that is not more than the actual cost incurred by an agency or Minister in giving access to the document.	S.4: FOI Act (Qld) Schedule, Part 2, Item 3: FOI Regs (Qld)

Notes:

1. Application fees cannot be waived under the Act⁸⁴.
2. No charge is payable for doing a thing (or combination of things) that would otherwise attract a charge if the total amount of time spent by the agency or Minister or an officer doing the thing or things is 2 hours or less⁸⁵.
Example:
Assume an agency spends, for the application, 1 hour searching for documents and deciding the application for access and an officer spends 30 minutes supervising inspection of the documents. No charge is payable under the schedule, part 1, item 1 or part 2, item 1.
3. The amount of time spent searching for or retrieving a document does not include:
 - a. if the document is not found in the place where it ought to be located (according to the filing system of the agency or of the office of the Minister) - any time other than the time that would have been spent by the agency or Minister in searching for or retrieving the document if the document had been found in that place; or
 - b. if the relevant filing system ought reasonably to have indicated, but does not indicate, the place where the document is located - any time other than the time that would have been spent by the agency or Minister in searching for or retrieving the document if the relevant filing system had

⁸⁴ s.35C(1): FOI Act (Qld)

⁸⁵ Reg. 5: FOI Regs (Qld)

*indicated the place where the document is located and the document had been found in that place*⁸⁶.

4. No processing or access charges are payable if the applicant is in "financial hardship".⁸⁷

An applicant is individual is in financial hardship if:

- a. *They hold a concession card*⁸⁸; or
- b. *It is a non-profit organisation "in financial hardship" (which depends on the nature and size of the organisation's funding base, and the amount of the charge when compared to the organisation's financial position)*⁸⁹.

o **Written Notice Regarding Fees**

In Queensland, if an agency or Minister considers a processing charge or access charge is payable in relation to an application, the agency or Minister must give the applicant a written notice (a "preliminary assessment notice") advising the following⁹⁰:

- o The applicant is liable for a charge
- o What the preliminary assessment of the charge is
- o What the basis is for making that preliminary assessment
- o That the applicant can consult with the agency to modify the application in a way that will reduce the charge
- o Any deposit payable by the applicant (The relevant agency/Minister may require the applicant to pay a deposit of 25% of the total charge)⁹¹.

Note:

An application will be deemed to have been withdrawn unless the one of the following happens within 30 days after a preliminary assessment notice is given (or a further period which the agency or Minister allows):

1. *If the preliminary assessment notice states that a deposit is payable:
The applicant pays the deposit AND agrees in writing to pay the charge set out in the preliminary assessment notice*
2. *If the preliminary notice does not state that a deposit is payable:
The applicant agrees in writing to pay the charge set out in the preliminary assessment notice.*
3. *The applicant gives an objection notice to the relevant agency or Minister.*

o **Contesting a Charge**

An applicant has 30 days (or a further period which the agency or Minister allows) to object to the charges set out in a preliminary assessment notice⁹². However, an applicant is not entitled to an internal review of a preliminary assessment notice⁹³.

⁸⁶ Reg.6: FOI Regs (Qld)

⁸⁷ ss.35A(1) & 35C(3): FOI Act (Qld)

⁸⁸ s.35A(1)(a): FOI Act (Qld)

⁸⁹ s.35A(1)(b): FOI Act (Qld)

⁹⁰ Schedule 4, s.1(2) & (3): FOI Act (Qld)

⁹¹ s.35B(6): FOI Act (Qld); reg. 7: FOI Regs (Qld)

An applicant may object to a charge on the following grounds:

1. The charge has been incorrectly assessed or should not be imposed⁹⁴; or
2. Any processing charge and access charge should be waived because the applicant is in financial hardship⁹⁵.

The agency or Minister may then decide whether:

1. the charge in the preliminary assessment notice was wrongly assessed and should be reduced on a proper assessment; or
2. any processing charge and access charge are to be waived because the applicant is in financial hardship (the financial hardship process is set out in Part 3 of Schedule 4 of the FOI Act (Qld)); or
3. the applicant's contentions in its objection notice should be rejected⁹⁶.

If the decision is that the preliminary assessment was wrong and should be reduced

If the agency or Minister makes this decision then a new preliminary assessment notice must be given to the applicant, which must advise of the following:

1. the new deposit payable (if any) that has been assessed;
2. the new charges that have been assessed;
3. that the FOI application will be deemed to be withdrawn unless one of the following is done by the applicant within 30 days (or a further period which the agency or Minister allows) after the new preliminary assessment notice is given to the applicant:
 - a. If the new preliminary assessment notice states that the new deposit (if any) is payable:

The applicant pays the new deposit AND agrees in writing to pay the new charge(s) set out in the new preliminary assessment notice
 - b. If the new preliminary notice does not state that a new deposit is payable:

The applicant agrees in writing to pay the new charge set out in the new preliminary assessment notice.
 - c. The applicant applies for an external review of the new preliminary notice under part 5 of the FOI Act (Qld) (external review of decisions).
4. that the applicant is not entitled to either:
 - a. Give the agency or the Minister a further objection notice; or

⁹² Schedule 4, s.3(2): FOI Act (Qld)

⁹³ Schedule 4, s.3(1): FOI Act (Qld)

⁹⁴ Schedule 4, Part 2, s.3(2)(a): FOI Act (Qld)

⁹⁵ Schedule 4, Part 2, s.3(2)(b): FOI Act (Qld)

⁹⁶ Schedule 4, Part 2, s.3(3): FOI Act (Qld)

- b. An internal review of the new preliminary assessment notice.⁹⁷

If the decision is that any processing charge and access charge should be waived because the applicant is in financial hardship

The agency or Minister must give a notice to the applicant that states:

1. The decision and the reasons for the decision;
2. The name and designation of the person making the decision; and
3. Appropriate information about:
 - a. The applicant's rights of review of the decision; and
 - b. The procedure for the exercise of the rights, including (if applicable) particulars of the way in which an application for internal review may be made.⁹⁸

If the decision is that the preliminary assessment was wrong and should be reduced

The agency or Minister must give the applicant a notice stating that any processing charge and access charge is to be waived because the applicant is in financial hardship.⁹⁹

You may wish to discuss your application with the relevant FOI Coordinator who may advise you about how to reduce your costs, for example viewing/inspecting documents rather than photocopying them all. The FOI Coordinator (if any) of the relevant agency or department will also be able to give you information about deposits – when they are to be paid and how much.

10. Review and appeals

Both the Commonwealth and Queensland FOI legislation contain extensive provisions relating to appeal rights.

There are two types of review:

1. Internal review.
Dealt with in Part 3, Division 4 of the FOI Act (Qld), and in section 54 of the FOI Act (Cth).
2. External review.
Dealt with in Part 5 of the FOI Act (Qld), and in sections 55 and 56 of the FOI Act (Cth).

a. Internal Review

The internal review process is similar under the FOI Act (Qld) and the FOI Act (Cth).

⁹⁷ Schedule 4, Part 2, s.4(1): FOI Act (Qld)

⁹⁸ Schedule 4, Part 2, s.6: FOI Act (Qld)

⁹⁹ Schedule 4, Part 2, s.5: FOI Act (Qld)

COMMONWEALTH

FOI applicants under the Commonwealth legislation entitled to an internal review of the following decisions:

1. a decision refusing to grant access to a document identified in a request;
2. a decision granting access to a document but not granting, in accordance with a request, access to all documents to which the request relates;
3. a decision purporting to grant access to all documents in a request, but not actually granting that access;
4. a decision to defer the provision of access to a document;
5. a decision about the imposition of an application fee or what charges will apply to access to documents; and
6. decisions refusing to amend or annotate records of personal information.¹⁰⁰

However, an internal review of those decisions is not available where the responsible Minister or the principal officer of the agency made the decision(s).¹⁰¹

There are a number of other decisions relating to 'exempt documents' that may be reviewed under the FOI Act (Cth)¹⁰².

Process – How do I apply for internal review?

There is no set form to apply for an internal review, but the application must:

1. be in writing;
2. be accompanied by the relevant application fee (\$40¹⁰³); and
3. be lodged with the relevant agency¹⁰⁴.

You should keep a copy of your internal review application.

Time for applying for an internal review

An application for internal review under the FOI Act (Cth) must be made within the following time limits:

¹⁰⁰ s.54(1): FOI Act (Cth)

¹⁰¹ s.54(1): FOI Act (Cth)

¹⁰² S.54(1C) to (1E): FOI Act (Cth)

¹⁰³ reg.5(b): FOI Regs (Cth)

¹⁰⁴ s.54(1): FOI Act (Cth)

1. *Decision refusing to grant access to a document identified in a request*
Within 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision.
2. *Decision granting access to a document but not granting, in accordance with a request, access to all documents to which the request relates;*
Within:
 - a. 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision; or
 - b. 15 days after the day on which the access referred to in that paragraph was granted; whichever period is longer.
3. *A decision purporting to grant access to all documents in a request, but not actually granting that access.*
Within:
 - a. 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision; or
 - b. 15 days after the day on which the access referred to in that paragraph was granted; whichever period is longer.
4. *A decision to defer the provision of access to a document.*
Within 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision.
5. *A decision about the imposition of an application fee or what charges will apply to access to documents.*
Within 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision.
6. *Decisions refusing to amend or annotate records of personal information.*
Within 30 days (or such further period as the agency allows) after the day on which the applicant is notified of the decision.

Cost of internal review?

Commonwealth FOI applicants have to pay a \$40 fee when applying for an internal review under section 54 of the FOI Act (Cth)¹⁰⁵.

The internal review and potential outcomes

As soon as practicable after an application for review has been made, the relevant agency must arrange for another person (again, usually a more senior officer than the original decision maker) to conduct the review(s) of the decision and to make a fresh decision.¹⁰⁶

¹⁰⁵ reg.5(b): FOI Regs (Cth)

¹⁰⁶ s.54(2): FOI Act (Cth)

There are potentially three outcomes from an internal review:

1. a new decision is made to replace the original decision the subject of the internal review;
2. the original decision is affirmed (i.e. the same decision is made on internal review as the original decision); or
3. no decision is made within the required period.

If a decision on internal review is made within time

In this case the relevant agency or Minister will advise the FOI applicant of the decision in the same way as if it was an original decision¹⁰⁷.

If you disagree with that decision then you may apply to the Administrative Appeals Tribunal ("AAT") for to externally review the decision¹⁰⁸ (external reviews will be dealt with a little later in this factsheet).

If no decision on internal review is made within the required period

If the relevant agency or Minister does not complete the internal review and advise the FOI applicant within 30 days after the application for internal review was made, then:

1. at the end of that period the agency or Minister is deemed to have made a decision to refuse access to the relevant document(s)¹⁰⁹; and
2. an application may be made to the AAT for an external review of the decision¹¹⁰.

In those cases, the application to the AAT must be made within 60 days after the day on which the agency or Minister is deemed to have made a decision to refuse access¹¹¹. Applications to the AAT for external review are dealt with below.

QUEENSLAND

FOI applicants in Queensland are entitled to an internal review of the following decisions:

1. a decision on access to documents under Part 3 of the FOI Act (Qld);
2. a decision that the FOI Act (Qld) (or part of it) does not apply to the particular entity with whom the FOI application has been lodged;
3. a decision that the FOI Act (Qld) (or part of it) does not apply to a particular document(s); and
4. a decision of the relevant agency or Minister that the applicant is not entitled to access to certain document(s) identified in the FOI application because the applicant is an "offender" or an agent of an "offender".¹¹²

¹⁰⁷ ss. 26 & 54(4): FOI Act (Cth)

¹⁰⁸ s.55(1) & (2): FOI Act (Cth)

¹⁰⁹ s.56(1): FOI Act (Cth)

¹¹⁰ s.55(3): FOI Act (Cth)

¹¹¹ s.55(4)(a): FOI Act (Cth)

However, an internal review is not available for the following decisions:

1. a decision made on internal review under section 52 of the FOI Act (Qld); or
2. a decision made by the relevant agency's "principal officer" or Minister.¹¹³

Section 52A of the FOI Act (Qld) sets out who is a 'person aggrieved' by a decision (and therefore entitled to seek an internal review).

Process – How do I apply for internal review?

An internal review must be applied for within 28 days (or some further period allowed by the agency or Minister) after the day on which written notice of the relevant decision was given to the FOI applicant.¹¹⁴

There is no set form to apply for an internal review, but the application must:

1. be in writing;
2. state an address to which notices under this Act may be sent to the applicant; and
3. be lodged at an office of the agency or the Minister within 28 days after the day on which written notice of the decision was given to the applicant or within the further time the agency's principal officer or the Minister allows (whether before or after the end of the 28 day period)¹¹⁵.

You should keep a copy of your internal review application.

Cost of internal review?

There is no additional fee for requesting an internal review in Queensland.

The internal review and potential outcomes

On an internal review another person within the agency (usually a more senior officer than the original decision maker)¹¹⁶ will reconsider the entire matter. The reviewer must decide the application for internal review as if it were a fresh application under section 25 of the FOI Act (Qld)¹¹⁷ [see above in this factsheet for the process on fresh applications].

¹¹² s.52(1): FOI Act (Qld)

¹¹³ s.52(3): FOI Act (Qld)

¹¹⁴ s.52(2)(c): FOI Act (Qld)

¹¹⁵ s.52(2): FOI Act (Qld)

¹¹⁶ s.52(4): FOI Act (Qld)

¹¹⁷ s.52(5): FOI Act (Qld)

There are potentially three outcomes from an internal review:

1. a new decision is made to replace the original decision the subject of the internal review;
2. the original decision is affirmed (i.e. the same decision is made on internal review as the original decision); or
3. no decision is made within 28 days after the request for internal review is lodged.

If a decision on internal review is made within time (i.e. within 28 days after the request for internal review was received)

In this case the relevant agency or Minister will advise the FOI applicant of the decision in the same way as if it was an original decision¹¹⁸;

If no decision on internal review is made within time (i.e. within 28 days after the request for internal review was received)

If the relevant agency or Minister does not complete the internal review and advise the FOI applicant within 28 days of receiving the request for internal review, then at the end of that period the agency's principal officer or the Minister is taken to have made a decision affirming the original decision (i.e. the same decision which is subject to the internal review).¹¹⁹

b. External Review and Appeals

If the application for internal review is completely or partly refused the next step is external review. Provisions for external review vary considerably under the Commonwealth and Queensland FOI Acts.

Under the Cth FOI Act, apart from certain responsibilities entrusted to the Ombudsman, external review is conducted by the Administrative Appeals Tribunal ("AAT")¹²⁰.

Under the Qld FOI Act, an external review is conducted by the Information Commissioner¹²¹.

COMMONWEALTH

Administrative Appeals Tribunal (AAT)

Under the FOI Act (Cth), external reviews are heard and decided by the AAT, and the AAT has the power to change the agency's decision. You may apply to the AAT for an external review of a decision by the agency or Minister only if you have been through the internal review process and either:

¹¹⁸ ss. 27 & 52(5): FOI Act (Qld)

¹¹⁹ s.52(6): FOI Act (Qld)

¹²⁰ ss.55 & 56: FOI Act (Cth)

¹²¹ Part 5: FOI Act (Qld)

1. you don't agree with the decision which the agency or Minister actually made (i.e. not a deemed refusal); or
2. a decision on the internal review was not made within time (the decision is then deemed to be a decision to refuse access¹²²).¹²³

Applicants under the FOI Act (Cth) are also able to complain to the Ombudsman about their application and the way which the agency or Minister has dealt with it.¹²⁴ If you make a complaint to the Ombudsman then you can't apply to the AAT for an external review of the relevant decision(s) until the Ombudsman has informed you of the result of the complaint¹²⁵. Complaints to the Ombudsman will be dealt with a little later in this factsheet.

The normal procedures of the AAT involve attendance at a tribunal hearing by both parties in proceedings modelled on those of a court. You should obtain legal advice before proceeding with an external review in the AAT.

How do I apply for external review?

You need to fill out an AAT application form headed "Administrative Appeals Tribunal Act 1975 (AAT Act (Cth)) – Application for Review of Decision" with the following attached –

1. a copy of your FOI application;
2. a copy of the letter from the agency in response;
3. a copy of your request for internal review;
4. a copy of the letter from the agency in response; and
5. the application fee of \$639.

Who do I send my application to?

You should send your application to:

Administrative Appeals Tribunal
PO Box 9955
BRISBANE 4001
Ph. (07) 3361 3000 or 1300 366 700

What are the time limits on applying for external review?

You must appeal within 60 days (s. 55(4)(a) Cth FOI Act) of being notified of the agency's internal review decision. You must also appeal within 60 days of the deemed refusal of your internal review.¹²⁶

¹²² s.56(1): FOI Act (Cth)

¹²³ s.55(1), (2) & (3): FOI Act (Cth)

¹²⁴ s.57(1): FOI Act (Cth)

¹²⁵ s.57(3): FOI Act (Cth)

¹²⁶ s.55(4)(a): FOI Act (Cth)

What costs are involved?

An application fee of \$639 (subject to CPI increases) must be enclosed¹²⁷ however; you can apply to have this waived on the grounds of financial hardship¹²⁸.

What if application for external review is unsuccessful?

a) Federal Court

You can appeal to the Federal Court. The Federal Court's ability to change administrative decisions is limited compared to the AAT and the procedure more complicated and expensive. The merits of the decision of the AAT cannot be reviewed (i.e the Federal Court is not able to 'rehear' the original application and make a new decision on it). The Federal Court can only look at whether the decision was made lawfully (i.e. there was no error in law in arriving at the external review decision by the AAT).¹²⁹

You should get legal advice before applying to the Federal Court.

b) Ombudsman

You can contact the Commonwealth Ombudsman to investigate the agency's action leading to the decision.¹³⁰ The Ombudsman can review decisions to make sure they were made in a fair and proper manner. However, the Ombudsman can only make a recommendation that the decision be changed; they have no power to make orders.¹³¹ There is no fee involved for an Ombudsman's review.

Note: *If you make a complaint to the Ombudsman then you can't apply to the AAT for an external review of the relevant decision(s) until the Ombudsman has informed you if the result of the complaint*¹³².

QUEENSLAND

How do I apply for external review?

The first point to note is that you cannot apply for an external review unless:

1. you have requested an internal review under either of sections 52 or 60 of the FOI Act (Qld);
and *either*:
2. you have been informed of the result of the internal review;

¹²⁷ s.70 *Administrative Appeals Tribunal Act 1975* (Cth) ("AAT Act (Cth)"); reg. 19(1): *Administrative Appeals Tribunal Regulations 1976* (Cth) ("AAT Regs (Cth)")

¹²⁸ s.29: FOI Act (Cth); reg.19(6): AAT Regs (Cth)

¹²⁹ s.44(1): AAT Act (Cth)

¹³⁰ s.57(1): FOI Act (Cth)

¹³¹ *Ombudsman Act 1976* (Cth) ("Ombudsman Act")

¹³² s.57(3): FOI Act (Cth)

OR

3. the internal review was not carried out within the required 28 day period¹³³.

External reviews in Queensland are conducted by the Information Commissioner¹³⁴.

The Information Commissioner:

1. conducts external reviews in an informal manner¹³⁵;
2. does not have to observe usual rules of evidence¹³⁶ (like courts have to);
3. has broad discretion to choose the procedure to be followed on a review¹³⁷;
4. must make sure that the review procedure is fair, and that each participant in the review has an opportunity to present their views to the commissioner¹³⁸.

Mediation is often used to try and achieve a resolution. Mediation may result in the applicant and the agency agreeing to compromise or the Commissioner may assist by clarifying how the FOI law operates.

The Commissioner will then review all of the material provided including the documents being sought, before making a decision. The Commissioner must notify you in writing of his/her decision.¹³⁹

Application must be made in writing to the Information Commissioner and needs to include¹⁴⁰:

1. the address to which notices are to be sent;
2. particulars of the decision for review;
3. particulars of the basis on which the applicant disputes the decision under review;
4. a copy of your FOI application;
5. a copy of the letter from the agency in response;
6. a copy of your request for internal review; and
7. a copy of the letter from the agency in response.

Who do I send my application to?

The application should be sent to:

¹³³ s.73(3): FOI Act (Qld)

¹³⁴ ss.72 & 101A: FOI Act (Qld)

¹³⁵ s.72(1)(b): FOI Act (Qld)

¹³⁶ s.72(1)(c): FOI Act (Qld)

¹³⁷ s.72(1)(a): FOI Act (Qld)

¹³⁸ s.83: FOI Act (Qld)

¹³⁹ s.89(1) & (3): FOI Act (Qld)

¹⁴⁰ s. 73: FOI Act (Qld). Also see the Office of the Information Commissioner of Queensland website at <http://www.oic.qld.gov.au/default.asp?p=14>

The Office of the Information Commissioner
 PO Box 10143
 Adelaide Street
 BRISBANE QLD 4000

What are the time limits on applying for external review?

An application for external review must be made within 28 days of receiving the agency decision on the internal review or within 28 days after a deemed refusal of your internal review application¹⁴¹.

What costs are involved?

There are no costs associated with applying to the Information Commissioner for external review.

What if my application for external review is unsuccessful?

The external review decisions of the Information Commissioner are final. These decisions may only be reviewed in the Queensland Supreme Court, and the Court can only look at whether the decision was made lawfully (i.e. whether there was an error in law in arriving at the external review decision by the Information Commissioner)¹⁴². on the basis that an error in law was made in arriving at the external review decision .

The merits of the decision cannot be reviewed (i.e. the Court is not able to 'rehear' the original application and make a new decision on it).

You should get legal advice before applying to the Supreme Court.

11. Timeframe for Applications and Reviews

COMMONWEALTH	
Type of Application	Timing
Internal Review Application	Must be lodged within 30 days after the day on which written notice of the decision was given to the applicant (or within a further time which the agency allows) (s. 54(1A): FOI Act (Cth))
Internal Review Decision	Agency must make decision within 30 days after receiving the application for internal review (s. 55(3)(b): FOI Act (Cth))
External Review	Must apply to AAT within 60 days of: 1. receiving the decision after internal review; or 2. a deemed refusal of your internal review application (if the internal review decision is not made within the prescribed time). (s. 55(4)(a): FOI Act (Cth))

¹⁴¹ s.73(1)(d): FOI Act (Qld)

¹⁴² s.44(1): AAT Act (Cth)

QUEENSLAND	
Type of Application	Timing
Internal Review Application	Must be lodged within 28 days after the day on which written notice of the decision was given to the applicant (or within a further time which the agency's principal or the Minister allows) (s. 52(2)(c): FOI Act (Qld))
Internal Review Decision	Agency must make decision within 28 days after receiving the application for internal review (s. 52(2)(c): FOI Act (Qld))
External Review	Must apply to Information Commissioner within 28 days of: <ol style="list-style-type: none"> 1. receiving the decision after internal review; or 2. a deemed refusal of your internal review application (if the internal review decision is not made within the prescribed time). (s. 73(1)(d): FOI Act (Qld))

12. Alternative Approaches to a Refused Request

Recasting the application

If your review applications have been unsuccessful you may consider submitting a new FOI application with amendments to the scope or nature of the documents that you are seeking. The relevant FOI Coordinator might be able to provide you with advice.

Other avenues

Lobbying to access the information you are seeking may also prove successful. Local members of parliament, the media and/or community groups may take an interest in the issue. It is also worthwhile to directly lobby the Minister for the information.

13. FOI Application Checklist

1. Have you completed the form in full? Or written a clear letter?
2. Have you identified the documents that you seek with as much detail as possible?
3. Have you included your current address and contact telephone numbers?
4. Have you specified the form of access? Eg. inspection, copies.
5. Have you kept a copy of your application?
6. Have you enclosed the application fee (if applicable) with your application?

14. Example of FOI Application Letter

9 January 2008

FOI Officer
Environmental Protection Agency
PO Box 15155
CITY EAST QLD 4002

Dear Sir / Madam

RE FOI REQUEST, KAHUNA BAY EIS

Pursuant to the provisions of the *Freedom of Information Act 1992 (Qld)*¹⁴³, Protect the Environment Conservation Council Inc. ("PECC") requests copies of all and every document in the power, control or possession of the Environmental Protection Agency ("EPA") relating to or touching upon:

1. Departmental assessment of the Kahuna Bay Final EIS, including but not limited to: memos, reports, studies, correspondence, emails, draft portions of the joint Final Assessment Report and briefing notes.
2. Departmental response to the Kahuna Bay Supplementary EIS, including but not limited to: memos, reports, studies, requests for studies, emails, draft responses, correspondence and records of phone conversations.

Please find **enclosed** a cheque for the requisite \$36 application fee.

Could you please advise us **as soon as possible** of the charges (if any) that will apply to obtaining copies of those documents from you so that we may arrange for those funds to be available?

Yours sincerely

Susan Smith
Coordinator

¹⁴³ If application is being made to a Commonwealth Agency reference should be made to the *Freedom of Information Act 1982 (Cth)*.

15. USEFUL CONTACTS

EDO-NQ
Level 1, 96-98 Lake Street
CAIRNS QLD 4870
Ph : 07 4031 4766
Fax: 07 4041 4535
edonq@edo.org.au

EDO (Qld)
Level 9, 193 North Quay (cnr Herschel St)
BRISBANE QLD 4000
Ph: 07 3211 4466
Fax: 07 3211 4655
edoqld@edo.org.au

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