

**Title:** Freedom of Information Request xxx – consultation on submissions

**Body:**

Good morning/afternoon

Thank you for your recent submissions regarding FOI XXXX.

The department agrees with your submissions on [enter accepted points here – dot points if more than 2].

However, the department does not agree that [enter disputed points here] should be redacted/exempt as [enter reason here].

**Can you please advise whether you agree to the release of [enter disputed points here] by COB [enter date here].** If you do not agree to the proposed release, we would appreciate if you could please make further submissions on this point explaining the harm of release.

If you do not respond, we will continue to rely on your submissions dated XXX.

Relevant provisions

The FOI Act, including the provisions referred to in this email, can be accessed from the Federal Register of Legislation website: [www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562).

If you require clarification of any of the matters discussed in this email you should contact the department's FOI Section by email at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Kind regards

Name

This document has been released under  
the Freedom Of Information Act 1982 by  
the Department of Health, Disability and Ageing

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**Title:** Freedom of Information Request XXX - Opportunity to make a submission (third party name)

**Body:**

Dear Colleagues

The Department of Health and Aged Care (the department) has received a request seeking access to the following under the *Freedom of Information Act 1982* (Cth) (FOI Act):

[insert summary of Scope of request]

**Documents captured in scope**

The attached document/s were captured within the scope of the applicant's request and include information which relates to/originated from a State or Territory government agency.

Under section 26A of the FOI Act, where the department receives a request for access to documents that contain information that relates to / was received from a State or Territory, and the department believes the relevant State or Territory may wish to contend the documents are exempt from disclosure, the department is required to consult the relevant State or Territory government before making a decision to release that information.

Please note, the documents provided to you by the department in relation to this FOI request are not a reflection of the department's views in relation to exempt material.

**For your action**

We are providing your agency with the opportunity to advise the department if you have any concerns with the information relating to your State or Territory being released to the applicant under the FOI Act.

By providing your submissions to the department, you will be informing the decision maker of your stance on the release of the information relating to your State or Territory.

Please provide any comments you may have by xxx. If you require further time for review, please let me know as soon as practicable.

Should you choose not to respond by this date, the decision maker will consider you have no objections to the release of the relevant documents and will proceed to make a decision on access to the document.

**Relevant grounds of exemption - Documents affecting Commonwealth-state relations**

Section 47B of the FOI Act provides that a document is conditionally exempt if disclosure of the document:

- would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth,

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to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth; or

- would divulge information or matter communicated in confidence by or on behalf of a Norfolk Island authority, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth; or
- would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to a Norfolk Island authority or to a person receiving the communication on behalf of a Norfolk Island authority.

**Commented** <sup>s47E(c)</sup><sub>s47F</sub>: Delete these two options if they are not applicable (ie the information does not relate to Norfolk Island)

It should be noted section 47B is a conditionally exemption, and access to a conditionally exempt document should be granted unless disclosure would be contrary to the public interest. As such, if you wish to contend that the document is conditionally exempt under section 47B, it would assist the decision maker if you were to also outline why disclosure of the information would be contrary to the public interest.

### **Third party review rights**

If the department decides after consultation to grant access contrary to your submission, you will be notified of your right to seek an internal or Information Commissioner review of the decision to grant access.

Further information on third party review rights can be found at <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/personal-and-business-information-third-party-review-rights/>.

### **Disclosure log**

You should be aware if the department decides to grant access to documents, or parts thereof, it is a requirement that they be published on the department's [Disclosure Log](#), unless one of the exceptions in s11C of the FOI Act apply. If you consider it would be unreasonable for some or all of the documents to be published, please indicate this in your response. A Disclosure Log decision is not reviewable, but the department would take your views into account.

### **Applicant's review rights**

The FOI applicant has rights of review under the FOI Act. These include external review by the Australian Information Commissioner and the Administrative Appeals Tribunal. If the decision is to exempt any material in accordance with any submission you may make, your submission may be required to be given to the external reviewer.

### **Provisions of the FOI Act**

The relevant provisions of the FOI Act can be found at [www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562). In addition, further guidance about the FOI Act can be found at [FOI Guidelines](#).

### **Contacts**

If you require clarification of any of the matters discussed in this email, please do not hesitate to contact us on the details below.

Kind regards

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Name

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the Department of Health, Disability and Ageing

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**Title:** Freedom of Information Request XXX - Opportunity to make a submission (third party name)

**Body:**

Good morning/afternoon

The Department of Health, Disability and Ageing (the department) has received a request seeking access to the following under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*[insert a Summary of Scope of request]*

**Documents captured in scope**

The attached document/s were captured within the scope of the applicant's request and include your personal and/or business affairs information.

Under sections 27 and 27A of the FOI Act, where the department receives a request for access to documents containing 'business information' and/or 'personal information' and the department believes the relevant organisation and/or individual may wish to contend information within the documents is exempt from release, the department is required to consult the relevant organisation and/or individual before making a decision to release that information.

Please note, the documents provided to you by the department in relation to this FOI request are not a reflection of the department's views in relation to exempt material.

**For your action**

We are now providing you with the opportunity to advise the department if you have any concerns with your information being released to the applicant under the FOI Act.

By providing submissions to the department, you will be informing the decision maker of your stance on the release of the information relating to you and/or your organisation.

Please provide any comments you may have by xxx. If you require further time for review, please let me know.

Should you choose not to respond by this date, the decision maker will consider you have no objections to the release of the relevant documents and will proceed to make a decision on access to the documents.

**Relevant grounds of exemption**

The relevant grounds of exemption are:

**DRAFTING INSTRUCTIONS: delete any sections which are not applicable:**

*Section 47 – Documents disclosing trade secrets or commercially valuable information.*

- Documents are exempt if release would disclose trade secrets or information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

*Section 47F – Personal privacy (public interest conditional exemption).*

- Documents are conditionally exempt if disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person). In deciding whether disclosure would be unreasonable, the decision maker will also consider the extent to which the information is well known, whether the relevant individual is known to be (or to have been) associated with the matters dealt within the document, the availability of the information from publicly accessible sources and any other matters that the decision maker considers relevant. Note: This exemption is only available if, in addition to the above details, it can be demonstrated that granting access would be, on balance, contrary to the public interest.

*Section 47G – Business (public interest conditional exemption).*

- Documents are conditionally exempt if disclosure would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs. Note: This exemption is only available if, in addition to the above details, it can be demonstrated that granting access would be, on balance, contrary to the public interest.

### **Third party review rights**

If the department decides after consultation with you to grant access contrary to your submissions, you will be notified of your right to seek an internal or Information Commissioner review of the decision to grant access.

Further information on third party review rights can be found at <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/personal-and-business-information-third-party-review-rights/>.

### **Disclosure log**

You should be aware, if the department decides to grant access to the documents, or parts thereof, it is a requirement that they be published on the department's FOI [Disclosure Log](#), unless one of the exceptions in s11C of the FOI Act apply. If you consider it would be unreasonable for some or all of the documents to be published, please indicate this in your response. A Disclosure Log decision is not reviewable, but the department would take your views into account.

### **Applicant's review rights**

The FOI applicant has rights of review under the FOI Act. These include external review by the Australian Information Commissioner and the Administrative Appeals Tribunal. If the decision is to exempt any material in accordance with any submission you may make, your submission may be required to be given to the external reviewer.

### **Provisions of the FOI Act**

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### **Contacts**

If you require clarification of any of the matters discussed in this email, please do not hesitate to contact us on the details below.

Kind regards

Name

This document has been released under  
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the Department of Health, Disability and Ageing



Australian Government

Department of Health, Disability and Ageing

FOI reference: FOI XXXX

[Correspondent Name]  
[Correspondent Job Title]  
[Correspondent Organisation]  
[Correspondent Street]  
[SUBURB] [STATE] [Post Code]

Dear [##First name LAST NAME##]

**NOTICE OF THIRD-PARTY REVIEW RIGHTS**

On [date], the Department of Health, Disability and Ageing (the department) received a request for documents under the *Freedom of Information Act 1982* (the FOI Act). The documents contained information relevant to your business, [business name].

On [date] the department consulted with you regarding these documents.

On [date], you provided submissions in response to the department. In summary you contended that:

[insert third-party's submissions]

#Delete if not relevant#

The department further consulted with you on [date] to provide our preliminary view of the documents.

On [date] you provided further submissions in response to the department. In summary you contended that:

[insert third-party's submissions]

#END#



I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests.

### Freedom of Information Decision

I have accepted your submissions and decided to

- grant access to 'document X' in part, subject to the deletion of irrelevant and exempt information.
- refuse access to 'document X' in full, as it contains fully exempt material.

However, I have made a decision which is in part adverse to your submissions, as I have decided that parts of 'document X' should not be exempt.

### Reasons for Decision

In making this decision, I have reviewed and considered your submissions and I have considered to provide access to documents X in part for the following reasons.

*[Insert argument against third party's submissions]*

A schedule setting out the document relevant to your review rights, with my decision in relation to this document, is at **ATTACHMENT A**.

**The enclosed documents (document/s X) will not be released to the applicant until your review rights have run out.**

### Legislative provisions

The FOI Act, including the provisions referred to in my decision, is available on the Federal Register of Legislation website:

[www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562).

The *Privacy Act 1988 (Cth)* (Privacy Act), can also be accessed from the Federal Register of Legislation website here: [www.legislation.gov.au/Series/C2004A03712](http://www.legislation.gov.au/Series/C2004A03712).

### Your review rights

Your review rights are set out in **ATTACHMENT B**.

### Contacts

If you require clarification of any matters discussed in this letter you can contact the FOI Section on (02) 6289 1666 or at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Yours sincerely,

[Name]

[Title]

[Branch]

XX August 2025

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the Department of Health, Disability and Ageing

ATTACHMENT A.

SCHEDULE OF DOCUMENTS  
FOI **XX**

Document	Pages	Date	Description	Decision on access	Relevant provisions of FOI Act

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## ATTACHMENT B.

## YOUR REVIEW RIGHTS

FOI **XX**

If you are dissatisfied with my decision, you may apply for a review.

**Internal review**

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision maker.

No particular form is required to apply for review although it will assist your case to set out the grounds on which you believe that the original decision should be changed.

Applications for internal review can be made by:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)

Mail: FOI Unit (MDP 516)  
Department of Health  
GPO Box 9848  
CANBERRA ACT 2601

If you choose to seek an internal review, you will also have a right to apply for Information Commissioner review (IC review) of the internal review decision once it has been provided to you.

**Information Commissioner review or complaint**

You also have the right to seek Information Commissioner (IC) review of this decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days after the day you are notified of the decision (if you do not request an internal review).

The application should identify the Department of Health, Disability and Ageing as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at [www.oaic.gov.au/freedom-of-information/reviews-and-complaints/](http://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/)
- via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available on the OAIC website here: [www.oaic.gov.au/freedom-of-information/foi-review-process](http://www.oaic.gov.au/freedom-of-information/foi-review-process).

## Complaint

If you are dissatisfied with action taken by the department, you may also make a complaint directly to the department.

Complaints to the department are covered by the department's privacy policy. A form for lodging a complaint directly to the department is available on the department's website here: [www.health.gov.au/about-us/contact-us/complaints](http://www.health.gov.au/about-us/contact-us/complaints)

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# Freedom of Information Quick Reference Guide

## External Consultations

The purpose of this guide is to assist FOI Case Officers to undertake third party consultation (TPC) in relation to FOI access requests.

### Requirement for TPC

If documents captured by an FOI request contain information that originated from or relates to an entity outside the department, it may be appropriate to consult that entity before the decision maker makes a decision on access to that information. The following table provides guidance and to when and how an external consultation should be undertaken.

	Relevant Section of the FOI Act	Is processing timeframe extended?	Must the applicant be notified of the consultation	Must the third party be notified of the decision	Is the third party entitled to review rights?
<ul style="list-style-type: none"> <li>➤ foreign government</li> <li>➤ an authority of a foreign government</li> <li>➤ international organisation</li> </ul>	s.15(7)	Yes s.15(8)(a)	Yes s.15(8)(b)	No	No
<ul style="list-style-type: none"> <li>➤ State/Territory government</li> <li>➤ agency of State/Territory government</li> </ul>	s.26A	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes s.26A(3)	Yes s.26A(4) s.53C
<ul style="list-style-type: none"> <li>➤ Business information in respect of a person, organisation or undertaking</li> </ul>	s.27 in respect of s47, s47G	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes - s.27(6)	Yes s.27(7) s.53C
<ul style="list-style-type: none"> <li>➤ Personal information</li> </ul>	s.27A	Yes s.15(6)(a)	Yes s.15(6)(b)	Yes s.27A(5)	Yes s.27A(6) s.53C
				If the decision is to release information to which the third party has made a submission in support of exemption contention	

➤ Commonwealth agencies*	N/A	No	No	No	No
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\* for consultation on cabinet documents with the Department of the Prime Minister and Cabinet – refer to [D22-1297414](#).

Sections 27(5) and 27A(4) provide that the department is not required to consult with affected third parties where it is impracticable to do so. For example, where:

- the department does not have current contact details for the third party
- contacting the third party would, or could reasonably be expected to, disclose the identity of the applicant where the applicant has not given consent
- third-party information is contained in a document to which the third-party is not entitled to access (i.e. internal briefs or decision-making documents)
- there are a very large number of affected third parties (please seek internal FOI advice on this point as required).

### Extension of processing timeframes

Where a statutory timeframe is extended under sections 15(6) or 15(8) to allow external consultation, the department must inform the applicant the statutory timeframe has been extended in writing as soon as practicable.

FOI Officers must also record all extensions of time in LEX FOI noting:

- the relevant provision of the Act (section 26A, 27 or 27A)
- the date that external consultation provision was enacted
- the date the applicant was notified of the need for third-party consultation, and
- the new statutory due date.

### Steps to undertake TPC

The following steps set out how FOI Case Officers should undertake TPC:

1. Seek written instructions from the FOI Decision Maker for TPC. In most cases, instructions will be provided via a signed Schedule of Documents. Note: FOI Case Officers may accept additional written instructions from the Action Officer only if the Decision Maker has verbally agreed and is copied in for visibility.
2. Notify the applicant of the need for TPC as per the requirements of sections 15(6) or 15(8) of the FOI Act. Update LEX with the TPC events identified above.
3. Review the Schedule of Documents to identify the number and nature of documents requiring TPC, and whether any sensitivities have been identified by the client area.
4. Check each document to make sure it is suitable for TPC in terms of scope, content and security classification. Case Officers must seek further instructions from the Decision Maker if they are not sure if documents require or should be sent out for TPC.
5. Prepare the document packs for TPC.
  - Add the FOI Reference number and Document Number to each PDF
  - Documents known to have been previously accessed by the third party can be sent without redactions, if instructed.
  - Information contained within documents that is sensitive or related to additional third parties should be redacted unless the information is publicly available or known to have been previously released to those third parties. This may mean that you have multiple versions of documents prepared to be sent to different third parties. PDFs with redactions must be sanitised before being sent out.



- Documents that are not known to have been previously accessed by third parties (such as internal documents) or that contain Protected or sensitive information require additional approval from the Decision Maker at Step 7 before they are sent out to third parties.
6. Prepare the TPC emails as per templates at **E22-93825**.
  7. Seek Decision Maker approval for any TPC document packs that contain previously unreleased or Protected information. Confirm if documents need to be sent from the Protected network.
  8. Seek peer review of TPC packs to ensure the correct packs are being sent to the correct third parties.
  9. Send TPC packs out and monitor responses. FOI Case Officers can group responses for collective action at the end of the consultation period. However, Case Officers must briefly review any responses on receipt to ensure that any TP concerns or issues (such as questions or data breaches) are immediately identified and addressed. All correspondence must be filed in Content Manager (CM).
  10. Collate third party responses and present to the Decision Maker for instructions on the access decision.

### Third-party review rights

Under sections 27(6) and 27A(5), any third party which has made submissions in relation to an FOI access request as part of external consultation must be given notice of the FOI decision and their review rights. The only exception is when the third party does not object to the release on any grounds.

The applicant will only be given access to a document when all third-party review rights have exhausted (and they have paid any outstanding charges).

FOI Officers are required to monitor and/or check whether third-party review rights have been exercised for an access request during the initial 30-day period, and any subsequent review period related to an IC Review.

Please see the [OAIC Third Party Review Flowchart](#) for further guidance.

### When to release documents subject to third-party review rights

Documents subject to third-party review rights under sections 26A, 27 and 27A can only be released once an FOI Officer has established that review rights have not been exercised, or that any review has been completed.

Section 3.201 of the FOI Guidelines advise that:

*Agencies should check with the OAIC as to whether an application has been made for IC review before they give the applicant documents whose release a third party may wish to oppose. This is particularly important because the Information Commissioner may extend the time a person has to apply for IC review.*

The OAIC suggests that the department contacts third parties directly to seek confirmation of a review request in the event that OAIC is unable to locate (i.e. confirm) a matching review.



In circumstances where a third party does not provide a response and the OAIC has confirmed that a third party has not exercised its review rights, the department may release the documents to the applicant.

**Further information**

Further information about external consultations and third-party review rights can be found in the FOI Guidelines [at 3.74 – 3.82] and [at 9.17 - 9.18].

If you have any questions about this QRG, please contact the FOI Director or Principal Lawyer.

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