

## Making an FOI Application

### Application for access to documents

If you have been unable to obtain access to information through your normal departmental contacts, you may wish to seek access to documents that contain the information through an application under the *Freedom of Information Act 1992*.

Your application needs to –

- be in writing (preferably on a departmental application form);
- provide sufficient information about the documents you are seeking to enable departmental employees to identify responsive documents;
- specify an address to which notices about the application can be forwarded;
- be signed; and
- be accompanied by the appropriate application fee for non-personal affairs applications (currently \$38.00).

### Application for amendment of personal affairs information

If you have had access to a document that contains information concerning your personal affairs that is inaccurate, incomplete, out-of-date or misleading, you can apply to have the information amended or corrected. Your application needs to –

- be in writing;
- specify what particulars you wish amended;
- outline why you believe the information to be incomplete, incorrect, out-of-date or misleading;
- suggest the amendments you would like the department to make;
- specify an address to which notices about the application can be forwarded; and
- be signed.

### How much will the application cost?

Personal affairs applications - There are no fees or charges associated with personal affairs applications.

Non-personal affairs applications attract the following fees and charges –

- \$38.00 application fee; plus
- \$5.80 per 15mins processing charges.

Non-personal affairs applications may also attract charges for supervising inspection and photocopy charges (e.g. 20c for A4 black and white copies). In addition, reasonable costs may be charged for hearing or viewing any material, transcript or producing a written document from a computer, etc.

**Processing charges** can be waived if the application can be finalised in less than two hours or the applicant meets the relevant criteria for financial hardship waiver (see below).

### ***Financial hardship waiver***

The department can decide to waive the processing charges associated with an application if relevant criteria are met. If you are an individual you must have –

- a health care card or pensioner concession card under the *Social Security Act 1991* (Cwlth); or
- a pensioner concession card issued by the Commonwealth Department of Veterans' Affairs.

The Department of the Premier and Cabinet can decide to waive the processing charges associated with an application if relevant criteria are met. If you are a non-profit organisation, you must provide –

- proof that the organisation is not carried on for the profit or gain of its individual members; and
- proof that the organisation is in financial hardship.

Even if applicants are able to satisfy the above criteria for waiver of the processing charges, they are still required to pay the \$38.00 application fee for non-personal affairs applications.

### **How long will it take to process my application?**

As a general rule, the department must provide an applicant with a decision letter within 45 days after receipt of the application.

A further 15 days is allowed for each of the following events –

- consultation with third parties pursuant to section 51 of the Act;
- request for non-personal affairs documents created prior to November 1987.

The FOI Act also gives the department the ability to negotiate another timeframe (under certain circumstances), if the application is extremely complex or voluminous.

The 45 day timeframe is affected by a number of stop and start triggers in the legislation relating to the payment of fees, charges, deposits and the provision of information from the applicant.

In reality, an FOI application can take 2-4 months to process.

### **What if I am dissatisfied with the decision?**

The FOI Act provides two review mechanisms for applicants who are aggrieved by certain decisions made by the department. They are known as internal and external review.

An applicant is also able to exercise their review rights if the department fails to make a decision within the required timeframe.

#### ***Internal reviews –***

- May be requested by the applicant, a third party or a person who should have been consulted as a third party.
- Can not be requested if the initial decision maker was the Director-General or the Minister. In such circumstances, the aggrieved party should proceed direct to external review.
- Must be requested within the appropriate timeframe (28 days from receipt of the initial decision).
- Must not be conducted by the initial decision maker and must be conducted by a person who is at least as senior as the person who made the initial decision.
- Decision must be made within 28 days of receiving the application.

Applications for internal review should be directed to –

Executive Director  
Corporate and Executive Services  
Mines and Energy  
Department of Employment,  
Economic Development and Innovation  
PO Box 15216  
City East Q 4002

**External reviews –**

- May be requested if the party is still aggrieved after the internal review stage.
- May be requested by an aggrieved party if the initial decision was made by the Director-General or the Minister.
- May be requested by the applicant if the initial decision was not received within the timeframe.
- Must be requested within the appropriate timeframe (28 days from receipt of the internal review decision).
- Are conducted by the Office of the Information Commissioner.
- Are not subject to any statutory timeframe for completion of the review.

Applications for external review should be directed to –

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

**Contact details**

Any enquiries regarding the *Freedom of Information Act 1992*, or the making of an application to the Department of Employment, Economic Development and Innovation, Mines and Energy, should be directed to the FOI Coordinator –

Postal Address: PO Box 15216, City East Q 4002  
Street Address: Level 4, 61 Mary Street, Brisbane Q 4000  
Telephone: (07) 3235 4772  
Facsimile: (07) 3239 6119  
Email: [foi@dme.qld.gov.au](mailto:foi@dme.qld.gov.au)