



Australian Government
**Office of the Australian
Information Commissioner**

Reference code: 64SQ47YZ

Information Commissioner Review Application form

Getting started

The Office of the Australian Information Commissioner can review a Freedom of Information (FOI) decision made by an Australian Government agency or an Australian Government Minister.

The Office does not review FOI decisions made by State, Territory or local government agencies.

The Office encourages you to apply for an internal review by the agency before lodging a request for review with this Office. Information relating to the internal review process

(<https://www.oaic.gov.au/freedom-of-information/reviews/internal-review/>) is available on our website (<https://www.oaic.gov.au/>).

The Information Commissioner has given a general direction under s 55(2)(e)(i) of the FOI Act which sets out the procedure to be followed by applicants for IC reviews undertaken by the Information Commissioner under the FOI Act. To view the direction

(<https://www.oaic.gov.au/freedom-of-information/reviews/direction-as-to-certain-procedures-to-be-followed-by-applicants-in-information-commissioner-reviews>) and the 'Quick guide'

(<https://www.oaic.gov.au/freedom-of-information/reviews/quick-guide-information-commissioner-review-direction-for-applicants>), please visit our website.

Information relating to the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/reviews/information-commissioner-review-process/>) is available on our website. Part 10 of the FOI Guidelines (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>) (Review by the Information Commissioner) describes the principles that inform the OAIc's approach to Information Commissioner review.

An application for review must be submitted in writing, either via this form, an email, or in a letter. If you have trouble completing this form please send an email to FOIDR@oaic.gov.au.

Your details - IC review applicant

If you have contacted the OAIC previously about this or another matter,
please provide your previous reference number (eg E11/00001, MR18/00001)

Title

Given name *

Family name *

Preferred contact method (you must provide at least one contact method) *

Email	Phone	Post	Other
-------	-------	------	-------

Email address *

Phone (daytime)

Mobile

Postal address

Other contact details (eg. fax or international address)

Do you require any assistance to participate in the IC review process?

For example: an interpreter. Please detail below.

Do you have someone you would like to represent you in your review? *

Yes	No
-----	----

Review details

Agency or Minister

Please select the Australian Government agency or Minister that made the decision you want reviewed. If you want more than one decision reviewed, you will need to make a separate application for each decision. *

Australian Government Agency
Minister

Agency information

Please select the Australian Government Agency that made the decision you want reviewed *

- Administrative Appeals Tribunal
- Attorney-General's Department
- Australian Federal Police
- Australian Securities and Investments Commission
- Australian Taxation Office
- Australian Transaction Reports and Analysis Centre
- Office of the Commonwealth Ombudsman
- Department of Agriculture, Fisheries and Forestry
- Department of Climate Change, Energy, the Environment and Water
- Department of Defence
- Department of Education
- Department of Employment and Workplace Relations
- Department of Foreign Affairs and Trade
- Department of Health and Aged Care
- Services Australia
- Department of Home Affairs
- Department of Industry, Science and Resources
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Department of the Prime Minister and Cabinet
- Department of Social Services
- Department of the Treasury
- Department of Veterans' Affairs
- Other

Other Australian Government Agency *

APSC

Previous contact with agency

If the agency has given you a reference number relevant to your FOI request, please provide it here.

LEX 761

NOTE: We do not need to know your tax file number, so please do not provide it.

Information Commissioner review details

Have you received a decision? *

Yes	No
-----	----

To make a valid application for IC review you must send us a copy of the decision you want reviewed. If a decision is not provided, your application may not be valid. *

Files you attach **must**:

- be in *.jpg, *.gif, *.png, *.pdf, *.doc, *.docx, *.txt, *.xls, *.xlsx format
- be no more than five files in total
- no larger than 20MB.

5_9_LEX_761_Internal_review_Decision_notice.pdf

Is the decision that you are seeking review of an original decision or an internal review decision? *

Original decision
Internal review decision

When was the decision made? *

29 Jan 2024

In most cases you must apply for IC review (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/#application-for-ic-review>) within 60 days of being notified of the Minister's or agency's decision to refuse access to documents (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/#access-refusal-decisions>). You must apply within 30 days if you are requesting review of a decision to grant access to documents to another person (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/#access-grant-decisions>).

You can also ask the Information Commissioner to grant you more time to apply for IC review.

Is your application for IC review being made within the above timeframes? *

*

Yes	No
-----	----

I am seeking IC review because the Agency or Minister (*more than one option can be selected if appropriate*): *

- refused access to documents or parts of documents I requested
- refused access because a practical refusal reason exists
- refused access because documents cannot be found

Please list the reasons you believe documents exist and any details that may assist in locating the documents *
(for example the date created, where they may be saved, who might have access to the documents).

On 19 October 2023, I requested access to any reports on the operations of the Australian Public Service Commission given during the 2022-2023 financial year by the Commonwealth Ombudsman:

https://www.righttoknow.org.au/request/report_on_the_operations_of_apsc#outgoing-21445.

On internal review, Samantha Montenegro stated that "all reasonable steps have been taken to find documents within the scope of your request, and ... no such documents falling within scope were found":

https://www.righttoknow.org.au/request/10772/response/33458/attach/9/LEX%20761%20Internal%20review%20Decision%20notice.pdf?cookie_passthrough=1.

I believe her statement is false.

I refer to a freedom of information decision issued by an official in the Office of the Commonwealth Ombudsman in December 2023:

<https://archive.org/download/foi-2023-10121-2023-12-22-jodie-hanlon-office-of-the-commonwealth-ombudsman-free/FOI-2023-10121%20-%202023%2012%2022%20-%20Jodie%20Hanlon%20-%20Office%20of%20the%20Commonwealth%20Ombudsman%20%28Freedom%20of%20information%20%28access%20refusal%29%20decision%29.pdf>.

In response to a request for access to a report setting out feedback provided to the Australian Public Service Commission in respect of an investigation conducted by the Office of the Commonwealth Ombudsman, an official in the Office of the Commonwealth Ombudsman identified an eight page document dated 15 December 2022.

According to the decision maker, the "document located and within the scope of your request includes the Office's findings, comments and suggestions relating to an investigation, communicated to an agency under s 12(4) of the Ombudsman Act 1976."

Subsection 12(4) of the Ombudsman Act 1976 (Cth) provides that the "Ombudsman may, if he or she thinks fit, furnish comments or suggestions with respect to any matter relating to or arising out of an investigation by him or her to any Department, body or person other than a Department, body or person to which or to whom he or she has furnished a report under section 15 relating to that matter or to matters that include that matter."

- deferred access to documents I requested
- refused to make corrections to my personal information
- decided to release information about me or my business.
- charged me incorrectly
- granted access to documents but I have not received them
- granted access to a qualified person and not directly to me
- refused to extend the time for me to seek an internal review
- granted access to documents that I was consulted about
- granted access to documents that my business was consulted about

Please provide a summary of why you think the decision is wrong *

The decision is wrong because, for the reasons stated, there is a document that exists within the scope of my request. Specifically, it is an eight page report provided to the APSC by the Office of the Commonwealth Ombudsman on 15 December 2022.

Does your Information Commissioner review application relate to other legal proceedings? *

(for example, Administrative Appeals Tribunal, Federal Court, Federal Circuit Court etc.) *

Yes	No
-----	----

What action or result would you like from the Information Commissioner *

Review on the merits.

Supporting documents

To assist us, please provide the following:

- a copy of your original FOI request to the Agency or Minister
- a copy of the decision made on your request if one has been received, and
- any correspondence you have had with the Agency or Minister.

If you are lodging the review for someone else, you should also attach any documents which indicate you are authorised to act for that person. You can attach these documents electronically or provide them by post.

You may also attach other relevant documents that support your application.

*Files you attach **must**:*

- *be in *.jpg, *.gif, *.png, *.pdf, *.doc, *.docx, *.txt, *.xls, *.xlsx format*
- *be no more than five files*
- *in total be no larger than 20MB.*

correspondence.pdf

2 8 LEX 686 Decision Notice.pdf

4 6 RQ24 00273 s 54D 18 Jan 2024.pdf

FOI-2023-10121 - 2023 12 22 - Jodie Hanlon - Office of the Commonwealth Ombudsman (Fre...

Do you have any paper documents you will be posting to the OAIC? *

Yes	No
-----	----

Submission

Submitting your application for review

Please review the information you have provided in this form. If you would like to change anything, you can return to the relevant section by using the **Go Back** button.

Once you are ready to submit your form, click the **Submit** button below.

Once you submit your form, you will be taken to a confirmation page. This page will provide a receipt number for your submission, and you will be able to download a copy of your completed form or have a copy sent to an email address of your choice.

Further information about the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>), including about what happens when an Information Commissioner review application is made (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/#steps-in-the-information-commissioner-review-process>), can be found on our website (<https://www.oaic.gov.au/>).