



OFFICIAL

Freedom of Information

Policy Statement

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1. Purpose

The *Freedom of Information Act 1982* (the FOI Act) promotes accountability and transparency in Government by providing a legal framework to give the Australian community access to information held by the Commonwealth.

The Department of Home Affairs (the Department), which includes the Australian Border Force (ABF), is required to comply with the FOI Act and manage information for public purposes as a national resource, including publishing information, providing access to documents and amending personal information.

All information, physical or digital, created or collected in the course of conducting business for the Department and/or information held on departmental systems may be subject to release under the FOI Act.

The Department will identify ways to provide clients with digital access to their personal information and regularly publish sought after statistics on departmental programs outside of FOI requirements.

2. Scope

2.1 In scope

This Policy Statement applies to:

- The release of documents under the provisions of the FOI Act.
- Changes to personal information that does not alter a person's identity for the purposes of other legislation administered by the Department, including the *Migration Act 1958* and the *Australian Citizenship Act 2007*.
- All person carrying out work for the Department (employees, contractors etc).

It is intended to be of particular assistance to:

- Employees of the Department who are delegated FOI decision-makers (all Senior Executive Service Band 3, Band 2, Band 1 plus all staff in the FOI Section).
- Divisional FOI Coordinators (usually the divisional Executive Officer).
- Any Immigration and Border Protection (IBP) workers who are tasked with assisting with an FOI request, such as by searching for documents or preparing material for an FOI decision-maker.

This Policy Statement applies to all documents, physical and digital (including social media and messaging platforms), held by the Department.

2.2 Out of scope

This Policy Statement does **not** apply to:

- The release of information as required or empowered by legislation other than the FOI Act.
- FOI requests made to the Minister's Office.

3. Policy Statement

In line with the provisions of the FOI Act, this Policy Statement outlines the Department's policy for:

- providing access to documents, including extracting data from departmental systems to create a new spreadsheet/document.
- amending personal information.
- publishing information as required by the Information Publication Scheme, including the Department's FOI disclosure log.

3.1. Freedom of Information legislation

Section 3 of the FOI Act states:

- (1) The objects of the *Freedom of Information Act 1982* are to give the Australian community access to information held by the Government of the Commonwealth, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better-informed decision-making; and
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

The FOI Act provides a statutory framework for:

- Giving access to a document held by the Department, including documents held by contractors.
- Detailing the type of documents exempt from disclosure via the FOI process.
- The power to refuse a request where all reasonable steps have been taken to search for the document.
- Amending or annotating personal information held by the Department when it is incomplete, incorrect, out-of-date or misleading.

- Following release of a document under FOI, ensuring relevant documents are published on the departmental disclosure log within the required time frame.
- Publishing information as part of the Information Publication Scheme.

The FOI Act also encourages agencies to establish administrative access arrangements to:

- give access to certain types of information outside of the formal FOI process,
- facilitate and promote prompt public access to information at the lowest reasonable cost.

A person is not entitled to access documents under the FOI Act, where those documents are available through another fee-paying process.

3.2. Principles for the processing of Freedom of Information requests

In keeping with the objects of the FOI Act, the Department will apply the following principles:

- The Department has in place records management policies that support the timely identification, collection and release of information.
- The Department supports the proactive publication and release of information, including program statistical reports.
- The Department considers what and how information should be released when implementing policy or process changes as well as how policy changes may impact on FOI requests.
- The Department keeps records for any process or program where a decision is made and keeps the information collected to support that decision.
- The Department recognises that clients need to access their own information, as indicated by the high volume of personal information requests, and the important role that providing this information plays in allowing clients to participate broadly in the Australian community by engaging with with other agencies and services.
- Areas of the Department that directly engage with clients must consider how an applicant can get easy access to the information they have provided.
- The Department must maintain accessible business mechanisms for updating personal details or documents as part of the Department's client facing application processes.
- The Department should build mechanisms into new systems or processes during the design phase that consider the need to provide the client access to their personal information.
- The Department releases statistics and these should be proactively published on the Department's website or data.gov.au.
- The Department supports the use of administrative release and arrangements under other legislation to release documents. This may include release under the *Privacy Act 1988* (the Privacy Act).

- The Department will maximise its effort towards the processing of all requests by utilising the practical refusal provisions in the FOI Act, to avoid the unreasonable diversion of its resources.
- The Department will impose charges for requests in line with the *Freedom of Information (Charges) Regulations 2019*.
- The Department seeks to meet the statutory timeframes provided in the FOI Act. Where processing times may exceed the standard statutory timeframes, the Department ensures applicants receive a substantive decision on their requests for documents as soon as practicable. The Department will process all requests to a final decision in accordance with the FOI Act.
- The Department prioritises requests in line with FOI Section's Case Management Plan with separate dedicated resources for personal and non-personal requests.
- Requests in the personal and non-personal caseloads are processed in date order unless there is a need for priority processing, as outlined in the Procedural Instructions.
- The Department protects the safety and privacy of its staff. Staff names (below SES) and contact details will not be released unless required to be released at review.
- The Department consults affected parties on potential harms if particular documents are released to inform its decision-making.
- The Department will not exempt documents that are misleading or inaccurate but will prepare to address misunderstandings which may arise if such documents are made public.

To ensure the responsible and lawful administration of its FOI obligations, the Department has regard to the FOI guidelines issued by the:

- Office of the Australian Information Commissioner
- The Attorney General's Department
- The National Archives of Australia

3.3. FOI decision-makers

The authority to make decisions under section 23 of the FOI Act is delegated by the Secretary to all SES in the Department and all APS 3 level and above officers in the FOI Section.

Decisions on sensitive FOI requests are made at the SES level to balance transparent and accountable government with any potential harms arising from release.

Business areas are the responsible record owners for FOI requests for information held or used by their area. The FOI section has established a framework for the assessment of FOI requests and helps business areas to comply with their obligations. The FOI section may resolve non sensitive FOI decisions on behalf of business areas.

Staff in the FOI Section, at APS 3 level and above, are typically decision-makers on routine requests where they have access to the requested documents, to facilitate timely processing.

3.4. Documents held by Contracted Service Providers

Section 4 of the FOI Act explicitly includes documents held by contracted service providers or sub-contractors. Section 6C of the FOI Act requires Commonwealth contractors and subcontractors to provide documents to the agency should the agency receive a request for access.

All Commonwealth contracts must impose the obligation on all contractors and their subcontractors to provide to the Department any Commonwealth records in their possession that would fall within the scope of an FOI request.

3.5. Review of decisions

The FOI Act provides for the review of the Department's FOI decisions either internally, by another departmental decision-maker, or externally, by the Information Commissioner.

3.5.1. Internal review

FOI applicants and affected third parties may seek an internal review of the Department's decisions. Internal reviews are conducted by the Reviews team in FOI Section.

3.5.2. External review

FOI applicants and affected third parties can also seek an external review with the Office of the Australian Information Commissioner (OAIC). The OAIC will notify the Department of such requests and holds broad remit under section 55 of the FOI Act to seek submissions or input as required by the Information Commissioner to conduct the review.

The Department will assist the Information Commissioner to make a decision in the review including by providing requested materials within the timeframes specified in the request. Penalties may apply for failure to comply.

4. Accountabilities and Responsibilities

Role	Description
Secretary	<ul style="list-style-type: none"> Accountable for the Department's compliance with the FOI Act as the 'principal officer of the agency'. Approves delegations for certain officers within the Department to make decisions under subsection 23(1) of the FOI Act. Deemed to have personally made a decision refusing access on any request not decided within the statutory timeframe.
Information Champion	<ul style="list-style-type: none"> Provides leadership on compliance by the Department with the FOI Act. Ensures the Department has in place best practice governance arrangements to meet the objects of the FOI Act and to comply with

Role	Description
	<p>all its obligations under the FOI Act, including meeting the statutory timeframes for the processing of FOI requests.</p> <ul style="list-style-type: none"> • Takes proactive steps to encourage the development and implementation of appropriate FOI Act compliance policies and procedures by the Department as part of the standard business practices of the Department. • Is a focal point for managing issues and developing strategic plans for FOI management within the Department. • Monitors compliance by the Department with the statutory processing requirements of the FOI Act, including setting KPIs for the management of FOI requests where appropriate. • Encourages proactive release, such as by monitoring trends in the FOI requests for non-personal information received by the Department.
Freedom of Information Section	<p>Responsible for administering all aspects of the FOI Act on behalf of the Department including:</p> <ul style="list-style-type: none"> • Providing policy advice on FOI-related policy, information release and exemptions. • Accountable for the processing of FOI requests within statutory time limits. • Case management of all FOI requests and decision making on the majority of routine requests. • FOI requests are classified as routine and sensitive, as defined in the Procedural Instructions. Where the request is sensitive, the FOI Section sends an alert to the relevant business area's alert distribution list to notify of the new request. • Ensuring the quality of decisions and continuous improvement of FOI decision-making. This includes reporting on FOI performance. • The Information Publication Scheme and content published by the Department relating to FOI including the disclosure log. • Deciding if information should instead be released by the FOI section under the <i>Privacy Act 1988</i>.
Senior Executive Band 2	<ul style="list-style-type: none"> • Accountable for FOI requests assigned to their business areas. • Responsible for appointing the appropriate SES decision-maker within their Division. • Responsible for proactive publication of regularly requested information.
Divisional FOI Coordinators (usually Division Executive Officers)	<ul style="list-style-type: none"> • Responsible for supporting compliance with all aspects of the FOI process within their business area, including ensuring a timely

Role	Description
	<p>response to requests and maintaining engagement with the FOI Section.</p> <ul style="list-style-type: none"> Responsible for coordinating issues management relating to information being released through FOI.
Exemptions	<ul style="list-style-type: none"> Where an FOI request for a document has been made and any required charges have been paid, an agency or minister must give access to the document unless the document at that time is an exempt document (s 11A). In addition, conditional exemptions under Division 3 of Part IV that are subject to the public interest test may apply. Part 5: Exemptions OAIC Part 6: Conditional exemptions OAIC
FOI decision-maker	<ul style="list-style-type: none"> Accountable for statutory decisions on requests for access and/or amendment. Responsible for providing subject matter expertise on decisions for assigned requests on scoping, release of documents and exemptions in compliance with the FOI Act. Responsible for ensuring reasonable searches have been conducted. Responsible for ensuring documents to be released are within the scope of the request.
Staff assisting FOI decision-makers in business areas including divisional coordinators	<ul style="list-style-type: none"> Responsible for conducting searches and providing documents within the scope of an FOI request. Responsible for identifying and advising FOI Section of the relevant details to enable assessment of practical refusal due to substantial and unreasonable diversion of resources from other operations. Responsible for identifying and advising FOI Section of required processing times and constraints, prior to the end of the statutory timeframe, to enable FOI Section to determine if an extension of time is required.
IBP workers	<ul style="list-style-type: none"> Responsible for maintaining all information in a manner consistent with the Department's Records Management Policy to ensure accurate and timely discovery and enable lawful release as required under the FOI Act. Responsible for ensuring all information is managed in line with the statutory requirements of the <i>Privacy Act 1988</i>.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
0.01		s. 47F(1)	Initial draft
1.1		s.22(1)(a)(ii)	Revised January 2020
1.2		s.22(1)(a)(ii)	Revised March 2021
2.0		Steven Biddle	Revised April 2022
2.1		s.22(1)(a)(ii)	Revised January 2023
2.2		s.22(1)(a)(ii)	Revised August 2023
2.3		s.22(1)(a)(ii)	Revised October 2023
2.4		Clare Sharp	Approved November 2023
2.5		s.22(1)(a)(ii)	Revised January 2024
2.6		s.22(1)(a)(ii)	PPCF Three year review of the document completed January 2024

Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Australian Information Commissioner	Information Commissioner	As defined in section 3A of the <i>Australian Information Commissioner Act 2010</i> . The Information Commissioner leads the Office of the Australian Information Commissioner in fulfilling its functions across privacy, freedom of information and government information management.
Business area		The Division (or work unit within a Division) which holds the information and/or subject matter expertise on documents or information within scope of the request.
Commonwealth record		A record that is the property of the Commonwealth or of a Commonwealth institution or a records that is to be deemed to be a Commonwealth record.
Diversion of resources / practical refusal		The Department may refuse a request if processing is considered to be a substantial and unreasonable diversion of resources as defined in section 24AA of the FOI Act.
Document		As defined in subsection 4(1) of the FOI Act. A document does not include material maintained for reference material purposes that is otherwise publicly available or Cabinet notebooks.
Freedom of Information	FOI	FOI is the right of the public to access information held by Australian Government ministers and Australian Government agencies.
FOI decision-maker	Decision-maker	An officer of the Department acting within the scope of authority to make FOI decisions as defined in subsection 23(1) of the FOI Act.
FOI disclosure log	Disclosure log	Publication of information accessed through FOI as defined in section 11C of the FOI Act.
<i>Freedom of Information Act 1982</i>	FOI Act	The FOI Act provides a legal framework to publish operational information, provide access to information, or amend personal information held by Government.
<i>Freedom of Information (Charges) Regulations 2019</i>		Which prescribe processing charges in connection with requests for access made under the Act.

Term	Acronym (if applicable)	Definition
Information Champion		The SES Band 2 officer with responsibility for FOI function, and leadership of the Department's compliance with the FOI Act.
Non-personal FOI request		FOI requests that are not for the applicant's personal information. These requests may be for information about policy-making, administrative decision-making and government service delivery.
Office of the Australian Information Commissioner	OAIC	The independent national regulator for privacy and Freedom of Information led by the Australian Information Commissioner.
Personal FOI request		Personal FOI requests are requests for information about an individual made by that individual or someone connected to that individual.
Personal information		Information or an opinion about an identified individual, or an individual who is reasonably identifiable, as defined in the <i>Privacy Act 1988</i> .

Attachment B - Related Documents

- Information Commissioner Guidelines - [OAIC FOI Guidelines](#)
- [The Attorney General's FOI Guidelines](#)
- [Records Management – PS \(TI-1094\)](#)
- [Processing non-personal Freedom of Information requests - PI \(TI-6738\)](#)
- [Processing personal Freedom of Information requests - PI \(TI-6953\)](#)

Attachment C – Related Legislation

- *Freedom of Information Act 1982*
- *Freedom of Information Act (Charges) Regulations 2019*
- *Archives Act 1983*
- *Australian Information Commissioner Act 2010*
- *Privacy Act 1988*

Attachment D – Consultation

1.1. Internal Consultation

The following internal stakeholders were consulted in the development of this Policy Statement:

- Citizenship and Multicultural Affairs Division
- Data Governance Council (March 2020 and March 2021)
- Detention Coordination Section
- Immigration Programs Division
- JATF Coordination Section
- Legal Group Privacy & Information Disclosure Section
- Records Management Section
- Status Resolution & Visa Cancellation Division



OFFICIAL

Processing personal Freedom of Information requests

Procedural Instruction

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Purpose

This Procedural Instruction (PI) sets out the process the Department of Home Affairs (the Department), including the Australian Border Force (the ABF), follows in managing and responding to personal requests made under the *Freedom of Information Act 1982* (the FOI Act).

This PI acts as an operational manual for the FOI Section and all other staff of the Department who may have a role in processing personal FOI requests. The document describes the operational processes and procedures in detail by breaking down the end-to-end process into stages and identifying, within each stage, how the process flows and who is responsible for tasks and activities.

Each stage has a summary flowchart to aid understanding and allow people to visualise the flow of the process across the Department. A guide for how to read the flowcharts is on [page 7](#).

This PI is related to the [Freedom of Information – Policy Statement \(PS\) \(SM-3357\)](#). The Policy Statement sets out accountabilities and responsibilities for staff in relation to FOI.

This PI covers the processing of requests for access to personal information. While many of the steps are the same as processing requests for non-personal information, key differences are:

- The FOI Section currently and will continue to search and retrieve documents for some common requests to access personal information (with support from divisional coordinators as required).
 - The FOI Section does not perform this task on behalf of business areas for requests for non-personal information.
- This PI includes some information for business areas considering new processes or developing new policies which may assist to reduce the FOI burden in the future.
- Proof of identity (and consent for third parties) is required for requests for personal information but is not relevant to requests for non-personal information.
- Certain personal requests are categorised as urgent and/or sensitive. Non-personal requests are not urgent and the criteria for determining if something is sensitive is different.
- Fees are not able to be charged for personal FOI requests but can be collected for non-personal requests.

Scope

This PI covers the processing of requests for access to personal information held by the Department under the FOI Act, including requests accepted on transfer from other agencies under section 16 of the FOI Act. Personal FOI requests are requests for information about an individual made by that individual or someone connected to that individual. Examples include but are not limited to:

- An applicant asking for their visa record;
- An applicant asking for information about their parent's arrival in Australia;
- An agent, lawyer or friend asking for information on behalf of the applicant about the applicant's detention record.

FOI requests for non-personal information, amendment or annotation of personal information, internal and external review of FOI decisions, releasing information under the *Privacy Act 1988*, Information Publication Scheme activities and FOI requests to a Portfolio Minister are out of scope of this PI. Information about these topics is available at: [Freedom of information \(homeaffairs.gov.au\)](http://Freedom of information (homeaffairs.gov.au)).

This PI provides guidance for the following roles/sections in the Department:

Role	Description
FOI Section	<p>Responsible for administering all aspects of the FOI Act on behalf of the Department including the following:</p> <ul style="list-style-type: none"> • providing policy advice on FOI-related policy, information release and exemptions. • deciding if information should instead be released by the FOI section under the <i>Privacy Act 1988</i>. • processing of FOI requests within statutory time limits. • case management of all FOI requests, including: <ul style="list-style-type: none"> ○ escalation of matters relating to request processing and decision-making; ○ assessing the validity of requests; ○ communicating with applicants to clarify scope and/or request extensions of time; ○ engaging with the Office of the Australian Information Commissioner (OAIC) including in regard to extensions of time; ○ on behalf of a business areas, retrieves documents in accordance with <u>Attachment D</u>; ○ consulting with third parties; ○ coordinating transfers of requests; ○ managing internal and external reviews of primary decisions; ○ providing guidance on practical refusal reasons and substantial and unreasonable diversion of resources; ○ sending alerts for sensitive matters. • Responsible for ensuring the quality of decisions and continuous improvement of FOI decision-making.
Decision maker (see definitions)	<ul style="list-style-type: none"> • Accountable for statutory decisions on requests for access and/or amendment. • Responsible for ensuring reasonable searches have been conducted. • Responsible for ensuring documents to be released are within the scope of the request.
Senior Executive Service Band 2 / Group Manager of business area	<ul style="list-style-type: none"> • Promotes the Information Commissioner's 'open by design' principles including exploring and implementing strategies to make personal information more accessible where appropriate. • Responsible for FOI requests assigned to their business area.

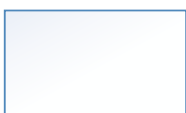



Role	Description
	<ul style="list-style-type: none"> • Supports processing of FOI requests including ensuring a timely response to requests and maintaining engagement with the FOI Section. • Responsible for coordinating issues management, including briefings, relating to information being released through FOI.
Divisional FOI Coordinator of business area (usually divisional Executive Officer)	<ul style="list-style-type: none"> • Responsible for supporting compliance with all aspects of the FOI process within their business area. • Promotes ways outside of FOI for clients to access their own information. • Supports processing of FOI requests including ensuring a timely response to requests and maintaining engagement with the FOI Section. • Responsible for advising of the appropriate decision maker. • Maintain oversight of outstanding and overdue FOI requests for their business area
Business areas	<ul style="list-style-type: none"> • Provides access to personal information through other channels such as the <i>Privacy Act 1988</i>. • Supports the development and management of easy and effective ways to allow clients to access their own information outside of the FOI pathway. • Responsible for conducting searches and providing documents within the scope of an FOI request. There are two ways for a business area to do this: <ul style="list-style-type: none"> ○ search for and provide the document or, ○ enter an agreement with the FOI section to perform this on their behalf. To take advantage of FOI's assistance in retrieving documents, business areas must design their systems and processes in line with <u>open by design</u> principles. See Attachment D for more information. • Responsible for identifying and advising the FOI Section of the relevant details to enable assessment of practical refusal due to substantial and unreasonable diversion of resources from other operations. • Responsible for identifying and advising FOI Section of required processing times and constraints, prior to the end of the statutory timeframe, to enable the FOI Section to determine if an extension of time is required. • Advises of potential harms and sensitivities and whether consultation for sensitive requests should be undertaken.

How to read the flowcharts

This PI provides flowcharts for each of the five stages of processing an FOI request. The flowcharts consist of six participants (the applicant, the FOI Section, the business area, the decision maker, third parties and SES/Minister's Office (MO)/Media). A participant may be a single person or consist of multiple people or teams.

Each step in the flowchart is numbered and is explained at the corresponding numbered paragraph in this document. The description includes the required outcome or output in order for the step to be considered complete.

Flowchart key

Symbol	Description
	The location of each activity box indicates the participant(s) involved in that step. If an activity box covers more than one participant's lane, involvement of both or all of those participants is required to complete the task. The lane the line enters a box is the role who leads on the activity and is responsible for its completion.
	Indicates a decision point where the outcome of the decision determines the appropriate next step in the process.
	The participant has been provided with information. The participant is not required to do anything in response.
	The arrow enters the activity box in the lane of the participant with primary responsibility for delivering the required outcome or output for that step. The lane the line enters a box is the role who leads on the activity and is responsible for its completion.

Procedural Instruction

High level process for personal FOI requests

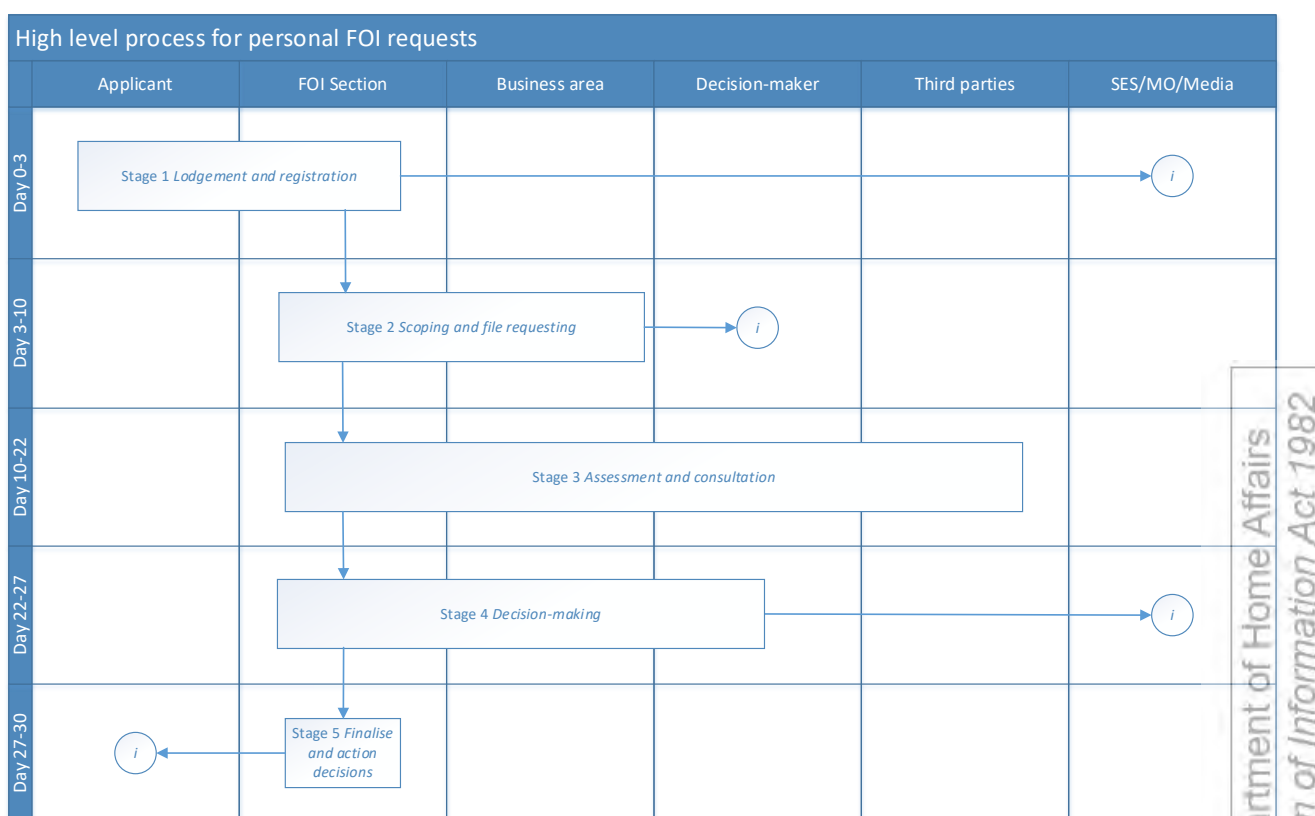
There are five stages to the Department’s process for handling personal FOI requests:

- Stage 1 *Lodgement and registration*
- Stage 2 *Scoping and file requesting*
- Stage 3 *Assessment and consultation*
- Stage 4 *Decision-making*
- Stage 5 *Finalise and action decisions.*

An overview of each stage is included in this section. Each subsequent section of this document details each stage in turn. Action in all stages of processing a personal FOI request are predominantly with the FOI Section. The FOI Section is the assessor and decision maker for most requests to access personal information.

The chart below illustrates the involvement of each of the different parties in each of the five stages.

An A3 PDF version of this chart is available at [ADD2021/6780131](https://www.foi.gov.au/ADD2021/6780131).



1 **Lodgement and registration**

Stage 1 *Lodgement and registration* starts when the Department receives an FOI request.

During this stage, the FOI Section assesses the request against the formal requirements of an access request under the FOI Act, identifies the applicant in ICSE where possible, registers the request in the

Department's FOI case management system named 'Resolve', and creates a container to save all material related to the request in the Department's Electronic Document and Records Management System, TRIM.

The FOI Section closes some requests in this stage, due to being invalid, withdrawn, *deemed withdrawn* or transferred to other agencies.

If the request is not closed then the outcome of this stage is a registered valid request and the FOI Section has identified business area(s) within the Department responsible for the request.

2 Scoping and file requesting

In Stage 2 *Scoping and file requesting*, the business area, or the FOI Section on behalf of the business area (see Attachment D), provides the documents.

The FOI Section will identify if the request is urgent and/or sensitive.

For sensitive requests, business area(s) provide advice as to potential harms and sensitivities and any necessary consultation.

The outcome of this stage is the FOI Section has identified documents for assessment.

3 Assessment and consultation

In Stage 3 *Assessment and consultation*, the FOI Section assesses the documents in scope of the request and undertakes any necessary consultation with other business area(s), Commonwealth agencies and/or third parties.

The outcome of this process is an assessment of potential harms and sensitivities to inform decision-making.

4 Decision-making

In Stage 4 *Decision-making*, the FOI Section prepares a decision letter and package of documents to be released (if any), with redactions (if any). For sensitive cases, it will be provided to a nominated business area decision maker. Consultation between the decision maker, the FOI Section and one or more business areas may occur until the decision maker is satisfied with the decision.

The outcome of this stage is an approved decision on the access request. Key stakeholders are alerted to decisions on *sensitive* requests.

5 Finalise and action decisions

In Stage 5 *Finalise and action decisions*, the FOI Section sends the access decision and documents (if any) to the applicant.

The outcome of this final stage is an access decision provided to the applicant and finalisation of the request.

1 Lodgement and registration

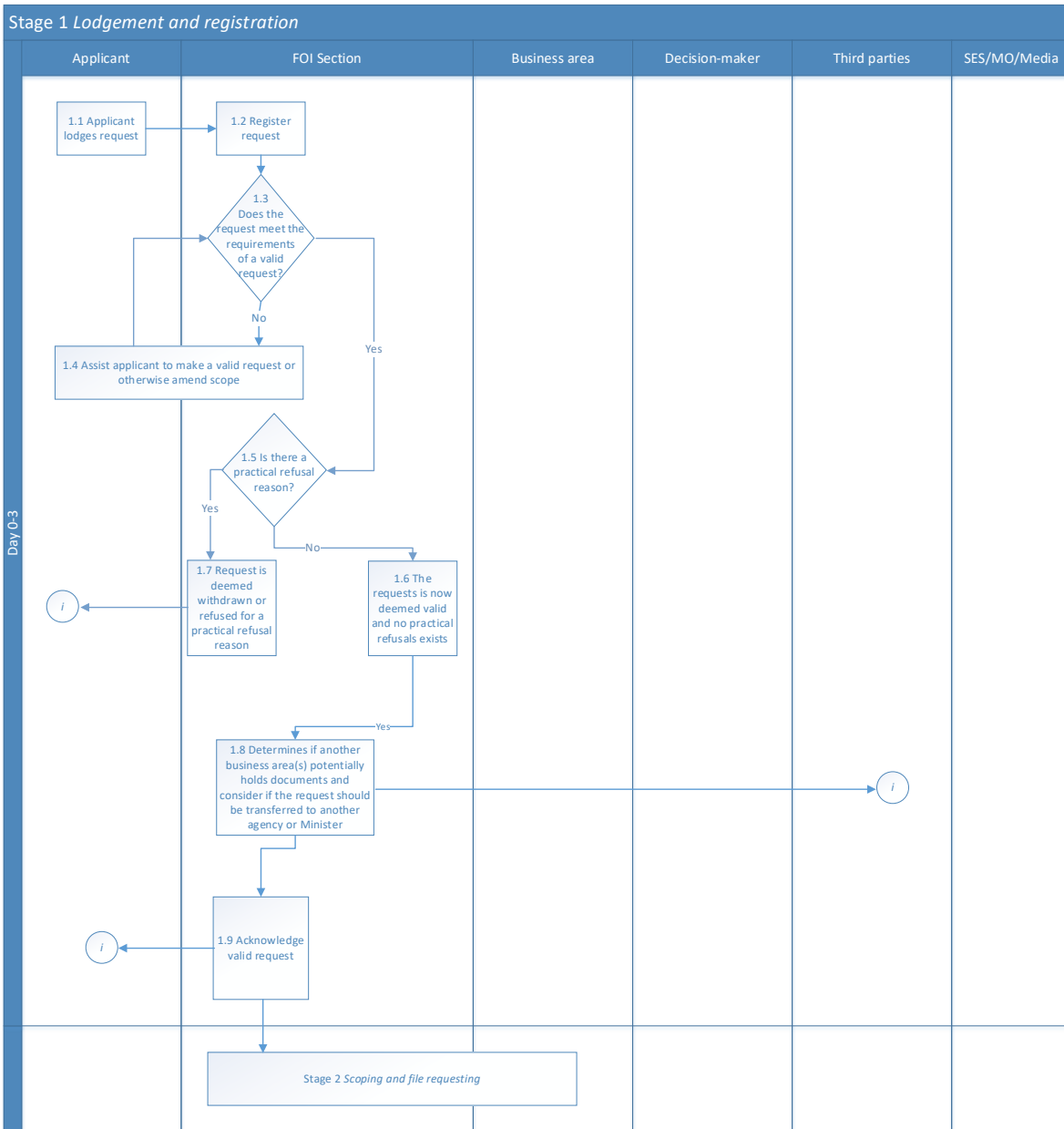
Stage 1 *Lodgement and registration* starts when the Department receives an FOI request.

During this stage, the FOI Section assesses the request against the formal requirements of an access request under the FOI Act, registers the request in the Department's FOI case management system, Resolve, and creates a container to save all material related to the request in TRIM.

The FOI Section closes some requests in this stage, due to being invalid, withdrawn, deemed withdrawn or transferred to other agencies. The FOI Section will also close requests that are better responded to through other channels established in the Department such as administrative release.

The outcome of this stage is a registered valid request. The FOI Section has identified business area(s) within the Department responsible for the request.

An A3 PDF version of this chart is available at ADD2021/6752781.



1.1 Applicant lodges request

The applicant lodges a request for documents with the Department, by:

- emailing to one of the Department's specified email addresses; or
- completing the 'Access to information' online form available on the Department's website; or
- posting addressed to the Department; or
- delivery of the request in person to a central or regional office of the Department.

If a business area receives an FOI request, the business area must immediately forward the request to the FOI Section (foi@homeaffairs.gov.au).

For requests received by post or in person at a central or regional office, the time of receipt is the date of delivery.

For requests received by email, the time of receipt is the date the request was received at the email address the Department has specified for FOI requests (foi@homeaffairs.gov.au).

As applicants are requesting access to their personal information, proof of identity must be provided. If identity documents are not provided upfront, the FOI Section will request them. In addition, if a third party, such as an agent, lawyer or friend, is assisting an FOI applicant, evidence of the applicant's consent is required. This helps to protect the privacy of our clients.

Outcome: The FOI Section has a written FOI request.

1.2 Register request

The FOI Section opens a personal request case in the case management system, Resolve, and assigns a case number. The FOI Section creates an *object box container (OBJ)* in TRIM to hold all records related to the request and references the *OBJ* in the case in Resolve. Information about the status of personal requests is available on ourData in the FOI Personal On-hand Caseload Dashboard (*DDP-506*).

The FOI Section categorises personal requests and records it in Resolve.

Urgent personal requests are requests that:

- relate to a Court Hearing or Administrative Appeals Tribunal hearing date scheduled within the next 30 days;
- are required to support a person impacted by events outside of their control, such as a person attempting to prove identity when documents have been lost or destroyed in a natural disaster;
- require information to be provided quickly for compassionate reasons (for example a copy of a marriage certificate for someone who is experiencing family violence);
- is related to a person currently in immigration detention, who requires information quickly. Some examples include detainees requesting information that will:
 - allow them to make decisions about their wellbeing or provide information in the course of an incident investigation; or,
 - inform requests for changes to their detention arrangements.

The FOI section registers and assesses urgent requests as a priority and will advise business areas of tight deadlines where required.

s. 47E(d)

S. 47E (d)

Outcome: The request is registered in Resolve and flagged as sensitive and/or urgent, a TRIM *OBJ* container exists, and the request is visible across the Department for monitoring and escalation purposes.

1.3 Does the request meet the requirements of a valid request?

The FOI Section determines whether the request has met the formal requirements of a request under subsection 15(2) of the FOI Act. A request for documents under the FOI Act must meet the following formal requirements:

- be made in writing;
- state that it is a request for the purposes of the FOI Act;
- provide such information as is reasonably necessary to enable a responsible officer of the Department to identify the document requested;
- give details of how notices under the FOI Act may be sent to the applicant.

The FOI Section is to take a flexible approach when assessing whether the applicant has met the requirement to state that the request is an application for the purposes of the FOI Act. For example, if it is clear the applicant intended to make a request under the FOI Act, and addressed their request to the FOI Section, it will be taken to be a request under the FOI Act.

Every person has a legally enforceable right to apply for access to a document of an agency or an official document of a Minister (subsection 11(1)). An applicant does not have to reside in Australia or be an Australian citizen. The term 'person' also includes a body politic or body corporate, such as a company.

Outcome(s):

- If the request meets the requirements: the FOI Section proceeds to step 1.6. The timeframe for making a decision on the request has commenced; or
- If the request does not meet the requirements: the FOI Section proceeds to step 1.4. The timeframe for making a decision on the request has not yet commenced.

1.4 Assist applicant to make a valid request or otherwise amend scope

If the request does not meet the formal requirements of an FOI request under subsection 15(2), the FOI Section assists the applicant to complete or revise their request under subsection 15(3) of the FOI Act.

The Department has a duty to take reasonable steps to assist a person to make a request that complies with the formal requirements of the FOI Act (subsection 15(3)). Reasonable steps include providing the applicant with any information that would assist the applicant to revise their request and giving the applicant a reasonable opportunity to consult with a contact person in the FOI Section.

The FOI Section consults informally with the applicant in circumstances where it considers the issues with the scope could be easily rectified (for example, where it is apparent the request was intended to relate to a specific date range but one of the dates was not included). As this method of consultation is used where rectification should be simple, the applicant will be given a period of 24 hours to respond.

1.5 Practical refusal reasons

The FOI Act provides a power to refuse a request where a *practical refusal reason* exists (section 24). Practical refusal reasons are where processing the request would substantially and unreasonably divert the resources of the Department from its other operations, or where the applicant does not provide sufficient information about the document requested to enable the Department to identify it (section 24AA).

Before refusing the request, the FOI Section will undertake consultation with the applicant under section 24AB. This involves providing a notice of the Department's intention to refuse the request for a practical refusal reason (subsection 24AB(2)), that the applicant has 14 days in which to respond (subsection 24AB(2)(e)), and that if the applicant does not respond within the specified timeframe, the Department will consider their request withdrawn (subsection 24AB(7)).

The time the FOI Section spends in formal consultation with the applicant to assist them to make a valid request is not included in the 30 day processing timeframe. The processing period does not restart until the request is valid and the practical refusal reason does not exist (subsection 24AB(8)).

During the formal consultation period, the applicant may:

- withdraw their request;
- make a revised request;
- indicate that they do not wish to revise their request;
- not engage with the Department.

Where the applicant withdraws the request, the FOI Section updates the status of the request in Resolve to withdrawn. The case is closed in Resolve and all records are saved in TRIM.

Where the applicant does not engage with the Department, the request is deemed to be withdrawn (subsection 24AB(7)).

Outcome: The applicant has had the opportunity to make a valid request and/or revise the scope of their request, with one of the following results:

- The request has been withdrawn: the FOI Section updates the status of the request to 'withdrawn' and **the file is closed**.
- The applicant wishes to proceed with the request, whether revised or not: the FOI Section proceeds to step 1.6.
- The applicant has not engaged with the Department: the request is deemed to be withdrawn: the FOI Section proceeds to step 1.7.

1.6 Is the request now valid and no practical refusal reason exists?

The FOI Section assesses the outcome of consultation with the applicant to determine whether the request now meets the requirements of a request under the FOI Act and can be processed.

Where the applicant has revised the scope or provided additional information to enable FOI Section and the business area to identify the document(s) requested, the FOI Section proceeds with processing the request.

Where the applicant has not revised the scope of the request, or has revised the scope but the Department considers the practical refusal reasons still stands, the FOI Section refuses the request.

Outcome(s):

- If the request is valid and a practical refusal reason does not exist, the FOI Section proceeds to step 1.8 and the timeframe for making a decision on the request has commenced.
- If a practical refusal reason still exists, the FOI Section proceeds to step 1.7.

1.7 Request is deemed withdrawn or refused for a practical refusal reason

Where the applicant does not engage with the FOI Section in response to a request consultation process within the required 14 day consultation period, or otherwise fails to respond to a request for clarification by the date specified in correspondence, their request is *deemed withdrawn* under subsection 24AB(7). The case is closed in Resolve by the decision maker and all records are saved in TRIM.

Where the applicant has responded to a request consultation process and has either indicated that they do not wish to revise the request, or has revised the request in such a way that the *practical refusal reason* remains, the FOI Section makes a decision under paragraph 24(1)(b) to refuse the request and send this decision to the applicant. The case is closed in Resolve and all records are saved in TRIM.

Outcome(s):

- If the applicant has not engaged with the FOI Section, the request is *deemed withdrawn*. **The file is closed.**
- If the applicant has engaged but the practical refusal reason still exists, the request is refused. The status is updated to 'refused for *practical refusal reason*' and **the file is closed.**

1.8 Determines if a business area potentially holds documents and consider if the request should be transferred to another agency or Minister or managed in a different way

The FOI Section considers the scope of the request and determines if the Department is likely to hold the information requested.

Assist applicant to direct request to the appropriate agency or Minister

It may be obvious from the scope of the request that the request (or part of it) would be better directed to another agency or Minister.

Separate from whether a request meets the requirements under subsection 15(2), the Department has a duty under subsection 15(4) to take reasonable steps to assist the applicant to direct their request to the appropriate agency or Minister. This duty may arise, for example, if the document requested is not in the possession of the Department but is known, or likely, to be in the possession of another agency or Minister. The FOI Section takes all reasonable steps to assist the applicant to direct their request to the appropriate agency or Minister. Reasonable steps include advising the applicant if the document requested is known or likely to be in the possession of another agency or Minister, and taking into account factors such as the applicant's level of knowledge of the structure of government and functions of agencies.

Where the applicant does not wish to redirect their request, the Department retains the statutory obligation to process the request, whether through transfer to the appropriate agency or Minister under section 16, or by conducting reasonable searches and refusing the request under section 24A on the basis that the documents do not exist or cannot be found.

Administrative access

As an alternative to processing as an FOI request, the FOI Section considers administrative access as an option to release information outside the FOI process.

Providing access to documents through an administrative access arrangement may offer a faster processing time, particularly in cases where the documents are to be released in full. Where a document is likely to contain a substantial number of redactions, or require consultations with third parties, it will generally be appropriate to process the request under the FOI Act.

Where an applicant has made an FOI request for documents that could be provided under the *Privacy Act 1988*, the FOI Section will register the request in Resolve as a Privacy Act request or, if already registered as an FOI request, provide the documents under the *Privacy Act 1988* and withdraw the FOI request. See OBJ2022/18320 for more information about how the FOI Section uses the *Privacy Act 1988* to provide applicants access to personal information.

Outcome(s):

Either of the following has occurred:

- The request is open and the FOI Section has identified which business area(s) hold documents in scope. The FOI Section proceeds to step 1.9.
- The request is closed.

Requests can be closed in the following circumstances:

- the request has been directed to another agency.
- the request has been transferred to another agency.
- the request has been withdrawn by the applicant because they have obtained the information through administrative access.

1.9 Acknowledge valid request

The FOI Section sends an acknowledgement of the request to the applicant no later than 14 days after the receipt of the request (section 15(5)(a)).

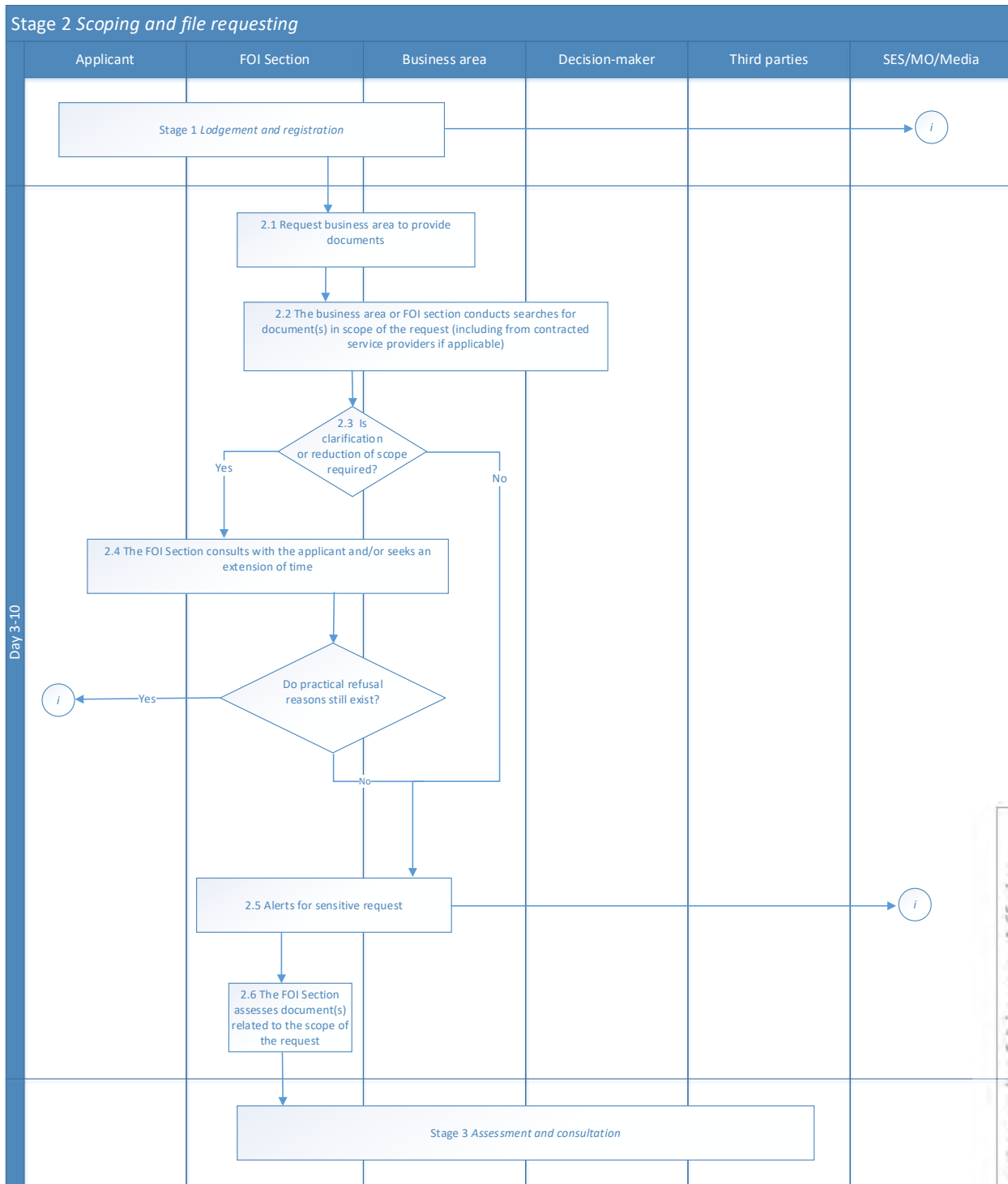
As part of the acknowledgment of receipt notice, the FOI Section advises the applicant that the Department considers personal details of staff (not in the Senior Executive Service (SES)), as well as the direct contact details of SES staff, to be irrelevant under paragraph 22(1)(a)(ii) of the FOI Act and that such information will be redacted from any documents to be released unless the applicant requests otherwise.

2 Scoping and file requesting

In Stage 2 *Scoping and file requesting*, the business area locates the documents in scope. Sometimes the FOI Section will do this on their behalf (see Attachment D). Business area(s) will provide advice as to potential harms and sensitivities and any necessary consultation.

The outcome of this stage is identified documents for the FOI Section to assess.

An A3 PDF version of this chart is available at ADD2021/6752776.



2.1 Request business area to provide documents

The FOI Section sends an email to the Divisional FOI Coordinator in the business area(s) seeking documents in scope of the request.

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The email provides a timeframe of seven (7) calendar days for the search and retrieval of documents and identification of potential harms, as well as the overall due date for the decision to be made. The email provides *FOI User Guides* for business areas and decision makers and the contact details of the case officer in the FOI Section for support. If the business area identifies they are not the correct area to provide the documents they must respond to the email as soon as possible stating:

- They do not hold any relevant documents.
- Which area may hold the documents if known.

Business areas should not seek to transfer requests to other business areas or agencies directly.

Sometimes the FOI Section can search for and retrieve a document on behalf of a business area. See Attachment D for more information.

Records Management Section assistance

Where a business area or the FOI Section cannot locate records, where files have been transferred to the Department in Machinery of Government changes, or where the FOI Section require assistance to conduct counts to assist with determining size of holdings where there are large quantities of records, the Records Management Section via the TRIM Helpdesk provides support for searching records in TRIM.

Physical documents

Physical documents must be recorded in TRIM and should be digitised where possible. For guidance see TRIM help card 22 at ADD2015/1183552.

Where is the document	What to do
Held by a business area	Identify relevant documents, scan and send to FOI for assessment
Stored offsite	<p>Notify the FOI Section, as retrieving the documents may take a little longer. Follow the instructions in TRIM Help card 36 at ADD2017/1068507.</p> <p>If the FOI Section is performing search and retrieval on your behalf (Attachment D), they will also manage this process.</p>

Escalation process – Business area

The business area must notify the FOI Section if it appears at any time that it will not be able to meet the timeframe set for search and retrieval, consultation or decision making and explain why. The FOI Section will determine whether to seek an extension of time from the applicant or the OAIC, and will set a new timeframe for the business area to finalise its search and retrieval of documents.

The following escalation processes are to be used to resolve delays where the delay is with the relevant business area within the Department:

Escalation point 1: Where the allocated timeframes for processing an FOI request are not met by the relevant business area, the FOI Section will follow up within three (3) business days.

At this point the business area advises the FOI Section why it has not met the timeframe. The FOI Section will determine whether to seek an extension of time from the applicant or the OAIC, if it has not already done so. The FOI Section will set a new timeframe for the business area to finalise its search and retrieval of documents.

Escalation point 2: If the business area does not meet the revised timeframe and has not, prior to the deadline, advised when it will be completed, the FOI Section will escalate via email to the SES Band 2/Group Manager officer of the business area, copied to the Divisional FOI Coordinator.

AS FOI & Records Management and any staff already identified in the business area. This escalation will occur within three (3) business days of the revised timeframe.

2.2 The business area or FOI Section conducts searches for document(s) in scope of the request (including from contracted service providers if applicable)

The FOI Section is normally responsible for conducting reasonable searches to identify documents in scope of the request. If available in TRIM, documents will be copied into an FOI TRIM file ready for assessment (stage three).

If the information is not in TRIM, a business area will be asked to locate relevant documents. Attachment D provides a list of common business areas who must retrieve and provide documents to the FOI section. If required guidance for business areas is available in *FOI User Guide – Search and retrieval* (ADD2021/2312331).

The business area or FOI Section must maintain a record of all information related to searches of electronic and physical storage systems, including discrete computer systems. Guidance on these steps is available from the OAIC in its *Guidance and advice: Processing FOI requests: taking all reasonable steps to find documents*.

The business area or FOI Section must ensure they take all reasonable steps to find documents. The FOI Guidelines instruct agencies to take a flexible and common sense approach to searching for documents noting that a reasonable search will depend on the circumstances of each request and will be influenced by the normal business practices in the agency's operating environment.

The business area or the FOI officer will consider:

- the subject matter of the documents;
- the current and past file management systems and the practice of destruction or removal of documents;
- the record management systems in place;
- the individuals within the Department who may be able to assist with the location of documents; and
- the age of the documents.

TRIM is the Department's default Electronic Document and Records Management System (EDRMS) and is used by all departmental staff for managing records. There are also other electronic systems and locations, such as PDMS, business systems, case management systems, legacy systems, network drives, email accounts, electronic documents saved on computers and portable devices, storage devices such as USBs. In addition, depending on the scope of the request, business areas should also consider searching hardcopy filing systems such as office files, filing cabinets and safes, desks, bookshelves and cupboards.

Good management of records facilitates efficient responses to FOI requests as information relevant to a request will be easy to identify and retrieve.

- *The Guide to good records management booklet* (TRIM ADD2016/1095091) outlines records management principles and guidelines in the Department.

Where the business area or/and FOI Section are unable to locate any documents, they will make a record of the steps taken to search for the documents. The *FOI User Guide – Search and retrieval* (ADD2021/2312331) includes a template for recording the searches conducted.

Business area or FOI Section requests to contracted service providers

The FOI Section may need to assess and release documents held by contracted service providers. Contracted service providers are required to provide documents in their possession to the Department under section 6C of the FOI Act. The OAIC's FOI Guidance and advice regarding documents held by government contractors states that:

Section 6C of the FOI Act requires an agency subject to the FOI Act to take contractual measures to ensure that the agency receives a document from a 'contracted service provider' if:

- the agency receives an FOI request for access to the document;
- the document relates to the performance of a 'Commonwealth contract' (but not the entry into the contract); and
- the document is created by, or is in the possession of, the contracted service provider or subcontractor.

Where the Department determines the scope of an FOI request requires a contractor to provide documents (either in the possession of a contractor or any subcontractor), the business area who manages the contract usually requests the documents from the contractor as soon as the requirement is identified to facilitate timely provision of the documents in accordance with section 6C. The FOI Section will seek basic documents about immigration detainees directly from onshore detention service providers.

Where there are likely to be delays in the provision of documents from the contractor, the business area advises the FOI Section, who can seek an extension of time. Requests to contracted service providers should specify a timeframe for return of documents, usually seven (7) days, and records of these requests are kept.

The Department can refuse a request where it has not received a document from a contractor in line with the measures in section 6C, and where the Department has taken all reasonable steps to receive the document. The business area keeps records of all contact with the contractor in relation to the request as part of managing the request (see subsection 24A(2) of the FOI Act). FOI User Guide – Search and retrieval (ADD2021/2312331) has additional guidance.

Outcome:

- If the business area and/or the FOI Section are unable to locate documents, they must record the steps taken to conduct reasonable searches to find documents in scope of the request.
- If contracted service providers hold relevant documents in their possession, these have been provided to the business area.

Collate document(s) in scope

The business area collates all documents it identifies as in scope of the request and sends to the FOI Section. The business area will also raise any potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act, such as security classifications, particular caveats (e.g. Cabinet documents), or special handling requirements. The business area also advises of the need for consultation about these potential harms.

Sometimes the FOI Section will complete the search and retrieval of the documents on behalf of the business area (see Attachment D). In these cases, the FOI Section will collate the documents and, unless the case is sensitive, the FOI Section identifies the harm, if any, that could be caused if the document or parts of the document is released. This may require consultation with the relevant business area(s).

The FOI Act sets out irrelevant factors that cannot be taken into consideration when deciding whether to release information, which include embarrassment or loss of confidence, misinterpretation or misunderstanding, the seniority of the author of the document, or confusion or unnecessary debate. Where

the business area identifies these types of sensitivities in the documents, the business area and Divisional FOI Coordinator must brief their reporting line in order to consider issues management activities.

Outcome: The FOI Section has all documents identified as in scope, and harms identified if the documents were to be released.

2.3 Is clarification or reduction of scope required?

The business area or FOI Section will determine as soon as possible, if:

- the request requires clarification of scope (e.g. a date range);
- the scope of the request does not provide sufficient information to identify the documents requested;
- the request is complex or voluminous;
- the request would involve a substantial and unreasonable diversion of resources.

Where the business area or FOI Section determines that a request is complicated or search results are large, the FOI Section will seek an extension of time in line with ADD2021/6294737 to manage the request or see if the applicant is willing to revise their request. More guidance in relation to scope is available in the *FOI User Guide – Search and retrieval* (ADD2021/2312331).

Practical refusal considerations

Under the FOI Act, the Department may refuse a request if a *practical refusal reason* exists, after first undertaking a request consultation process with the applicant (subsection 24(1)). A *practical refusal reason* may exist if the request is unclear, too broad, or unreasonably large (section 24AA).

Where the business area or FOI Section identifies the scope of a request is unclear, or that additional clarification of the scope is required from the applicant, the FOI Section will seek clarification from the applicant (see step 2.4).

Where a business area or the FOI Section considers the request is too broad or there is an extremely large number of documents to the extent that processing the request would involve a substantial and unreasonable diversion of resources, the business area or the FOI Section will record numbers and size of documents identified in preliminary searches, and, if needed, a sample of those documents.

Additional guidance and a template to assist with practical refusal considerations is available in *FOI User Guide – Search and retrieval* (ADD2021/2312331).

2.4 The FOI Section consults with the applicant and/or seeks an extension of time

The FOI Section will undertake consultation with the applicant where there are issues with the scope of the request. Consultation can be undertaken formally or informally with the applicant.

Practical refusal – Consultation with the applicant

The FOI Section may undertake formal consultation (instead of informal consultation) where a *practical refusal reason* exists, pursuant to section 24AB of the FOI Act.

Note: practical refusal reasons may arise in Stage 1, based on the FOI Section's initial assessment of the request (see step 1.4), or in this step, following business area consideration of the request and/or identification of documents.

Before refusing the request, the FOI Section will undertake consultation with the applicant under section 24AB. This involves providing a notice of the Department's intention to refuse the request for a *practical*

refusal reason, that the applicant has 14 days in which to respond, and that if the applicant does not respond within the specified timeframe, the Department will consider their request withdrawn.

The time the FOI Section spends in formal consultation with the applicant to assist them to revise their request is not included in the 30 day processing timeframe. The processing period does not restart until the request has been revised and the practical refusal reason no longer exists.

During the formal consultation period, the applicant may:

- withdraw their request;
- make a revised request;
- indicate that they do not wish to revise their request; or
- not engage with the Department.

Where the applicant withdraws the request, the FOI Section updates the status of the request to withdrawn. The case is closed in Resolve and all records are saved in TRIM.

Where the applicant does not engage with the Department, the request is deemed to be withdrawn (subsection 24AB (7)). The case is closed in Resolve and all records are saved in TRIM.

Informal consultation – Revision of scope

The FOI Section may instead undertake informal consultation where a practical refusal reason does not exist but it would assist the Department (and in turn the applicant by providing documents sooner) if the applicant provided additional details or revised the scope of their request. When undertaking informal consultation, the FOI Section specifies a timeframe in which the applicant is requested to respond.

Extension of time options

The FOI Section will seek an extension of time from the applicant of up to 30 days under section 15AA in line with the Extension of Time Guidelines (at ADD2021/6294737). The applicant must provide written consent for the extension of time to take effect and the FOI Section must notify the OAIC of the agreement.

Withdrawals due to a change in circumstance

Where an FOI Officer becomes aware that an event, such as a visa grant or refusal, or the passing of time, means the applicant is unlikely to require the information requested, the applicant should be asked if they would like to withdraw their request. The correspondence should make it clear that if no response is received within 14 days, the request will be deemed withdrawn.

Outcome(s): If a practical refusal notice has been issued, one of the following is the result:

- The request has been withdrawn: The FOI Section updates the status of the request to 'withdrawn' and **the file is closed**.
- The applicant has not engaged with the Department: the request is deemed to be withdrawn. The FOI Section updates the status of the request to 'withdrawn' and **the file is closed**.
- The applicant has engaged but the practical refusal reason still exists: the Department has refused the request. The refusal decision has been sent to the applicant. The status is updated to 'refused for *practical refusal reason*' and **the file is closed**.
- The applicant has clarified or revised their request and the practical refusal reason no longer exists. The FOI Section proceeds to step 2.5.

Other outcomes from this step can include:

- An extension of time has been granted: the FOI Section proceeds to step 2.5.
- The request has been withdrawn.

2.5 Alerts for sensitive requests

Where a valid personal FOI request is identified as *sensitive*, the FOI Section sends an alert to the relevant *alert distribution list* to notify of the new request. The *alert distribution list* includes SES responsible for FOI, Executive Coordination, Chiefs of Staff, Media Operations and Ministerial Offices, as well as identified contacts in the business areas determined to potentially hold documents in scope of the request. Other Senior Executives may advise FOI they have a requirement to be informed in relation to particular issues and the FOI Section adds them to relevant *alert distribution lists*. The *alert distribution lists* are limited to people with a 'need to know'. This is because the alert will include personal information about a client.

The FOI Act sets out irrelevant factors that cannot be taken into consideration with deciding whether to release information, which include misinterpretation, embarrassment or misunderstanding. The Department's alert process ensures Ministers and senior staff are ready to address potential misinterpretation or misunderstanding which may arise as a result of the release of information.

Divisional FOI Coordinators are responsible for coordinating issues management relating to information being released through the FOI process, with the advice and support of the FOI Section where appropriate. This includes any briefings required for the Senior Executive and Ministers' Offices on the implications and sensitivities of release of the information, and for the Divisional FOI Coordinator, decision maker and business area to arrange preparation of talking points where required.

Officers on the *alert distribution list* are notified at the Stage 1 *Lodgement and registration* stage and the Stage 4 *Decision-making* stage of the non-personal FOI request process, in order to ensure key stakeholders are fully briefed and talking points and media resources are prepared.

Outcome:

Where the request is *sensitive*, staff on the *alert distribution list* have been notified by the FOI Section of the receipt of the request.

2.6 The FOI Section assesses document(s) related to the scope of the request

The FOI Section assesses the document(s) provided relating to the scope of the request. Where the FOI Section determines documents are outside the scope of the request, these documents will be excluded from assessment in the next stage.

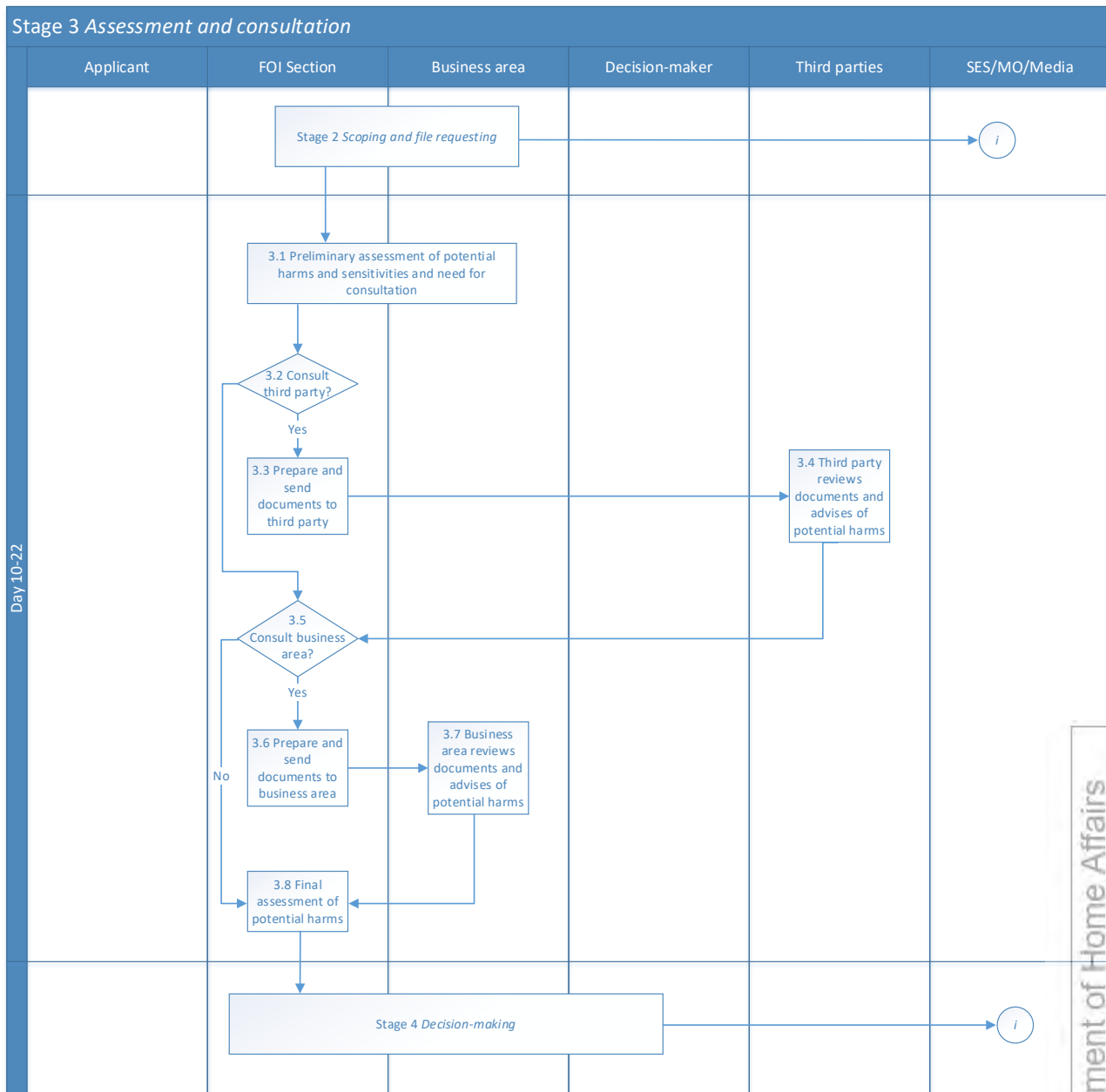
Outcome: The FOI Section has determined the documents in scope of the request which will be assessed in Stage 3 *Assessment and consultation*.

3 Assessment and consultation

In Stage 3 *Assessment and consultation*, the FOI Section assesses the documents in scope of the request and undertakes any necessary consultation with business area(s), third parties or other agencies.

The outcome of this process is an assessment of potential harms and sensitivities to inform decision-making.

An A3 PDF version of this chart is available at [ADD2021/6752772](https://www.foi.gov.uk/ADD2021/6752772).



3.1 Preliminary assessment of potential harms and sensitivities and need for consultation

The FOI Section assesses the document(s) to identify possible exemptions and/or irrelevant material in consultation with the business area, with their guidance on the nature of the documents. This is intended to identify potential issues and inform future actions.

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The business area in consultation with the FOI Section will determine the need for third party consultation. In the personal caseload this may occur where information to support an application has been obtained from a third party or a company/business information is referenced. The FOI Section manages consultation with third parties unless a business area requests to manage the consultation.

The FOI Section identifies other Commonwealth agencies or third parties who need to be consulted and upon which documents or parts thereof that they need to be consulted. Consultation will occur with other agencies and third parties where they may provide advice on potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act.

Formal consultation with third parties is undertaken on:

- documents affecting Commonwealth-State relations (section 26A);
- business documents (section 27);
- documents affecting another person's privacy (section 27A); and
- documents requiring consultation with foreign governments or international organisations (subsections 15(7)-(8)).

Where the FOI Section is required to undertake formal consultation with third parties:

- the timeframe for making a decision is extended by 30 days;
- the Department must give the third party a reasonable opportunity to make submissions in support of the exemption contention;
- any submissions by the third party must be considered;
- if a third party is consulted, they should be advised that if a response is not received within the specified timeframe the Department may proceed to make an access grant decision;
- the third party must be given notice of the decision and their review rights;
- the applicant will only be given access to a document when the third party's opportunities for review have run out;
- the applicant is advised if the Department is consulting a third party and the due date has been extended, and in some circumstances the FOI Section will seek the applicant's consent to have their identity disclosed.

The FOI Section will also undertake consultation with other Commonwealth agencies. In addition to consulting with other agencies or ministers where the request may be transferred (see step 1.8), the FOI Section consults with other departments or agencies in circumstances where:

- the other department or agency may hold documents in regard to a request made to the Department; or
- the other department or agency may provide advice on potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act.

Consultation with other Commonwealth agencies does not automatically attract additional processing time under the FOI Act. The FOI Section sets a timeframe of seven (7) days for a response to this form of consultation. Where consultations are complex or likely to be time consuming, the FOI Section requests an extension of time from the applicant or from the OAI. Where a response has not been received within the specified time-frame, the FOI Section will send a reminder seeking input.

- The Department of the Prime Minister and Cabinet (PM&C) must be consulted on documents that may be subject to a Cabinet documents exemption provision. The FOI Section use the template provided by PM&C for consultation and the business area must provide a Cabinet reference number or details of the relevant Cabinet committee.

Outcome: The FOI Section has reviewed documents and conducted a preliminary assessment of possible exemptions and consultation requirements.

3.2 Consult third party

The FOI Section will proceed to step 3.3 if third party consultation is required or to step 3.5 if third party consultation is not required.

Outcome: The FOI Section has identified formal and informal consultation as required

3.3 Prepare and send documents to third party

The FOI Section prepares and sends a consultation letter (outlining the relevant sections which may apply to the third party) and the documents for consultation, ensuring the third party will only have access to the documents, or parts of the documents, relevant to them.

The FOI Section undertakes consultations in accordance with the *Privacy Act 1988* and does not provide the applicant's personal information to the third party without the applicant's consent.

The FOI Section informs the third party that if a response is not received within the specified timeframe the Department may proceed to make an access grant decision (*FOI Guidelines* paragraph 3.81).

Outcome: Third parties have been notified of the request and documents for consideration.

3.4 Third party reviews documents and advises of potential harms

The third party reviews the documents provided by the FOI Section. A third party will only be provided the information that relates to them.

In third party consultations undertaken under sections 26A, 27 and 27A the third party may provide a submission in support of potential harms which may result from the release of documents and may support an exemption claim. If the third party does not make a submission in support of the exemption contention, the Department is not required to provide written notice of the decision to the third party concerned, nor is the Department required to wait until the third party's review rights have expired before providing access to the applicant.

In consultations undertaken with another Commonwealth agency, the agency may advise the FOI Section of potential harms or sensitivities within the documents. This type of consultation may identify that another agency has already disclosed the document in response to an FOI request or has made it publicly available.

Finalisation of decisions where no response is received – Third party

Where the timeframes provided by the FOI Section for consultation with a third party are due, the FOI Section provides a reminder before the due date. The reminder will advise that if a response is not received from the third party within the specified timeframe the Department may proceed to make an access grant decision, in accordance with paragraph 3.81 of the OAIC FOI Guidelines.

Where a response from a third party is not received, and there has been no response to a reminder, the decision maker can proceed to finalise the request.

Outcome: Either:

- The FOI Section has the consultation response from the third party, providing any submissions in regard to exemptions for consideration; or
- The third party has not responded to consultation and the FOI Section continues to process the request.

3.5 Consult business area?

The FOI Section considers whether consultation with business areas is required. In most cases consultation will not be undertaken. Factors for deciding on internal consultation will depend on the nature of the document and the potential harms and sensitivities.

Where a number of business areas need to be consulted, the FOI Section considers requesting an extension of time from the applicant or from the OAIC in line with ADD2021/6294737.

Outcome: The FOI Section identifies any relevant business area(s) for consultation.

3.6 Prepare and send documents to business area

The FOI Section undertakes consultation with any business area(s) identified in step 3.5. The FOI Section provides a version of the documents marked-up with proposed redactions to the business area for assessment with a summary of the preliminary exemptions identified.

Outcome: Business area(s) have been sent the document(s) proposed to be released, marked-up as necessary, for consideration.

3.7 Business area reviews documents and advises of potential harms

The consulted business area(s) reviews the document(s) provided by the FOI Section and advises of any potential harms not already identified. The business area must provide detail of harm arising from release and justification for any information or part of the document(s) they recommend to exempt. The business area does not need to identify the exemption provision under the FOI Act.

The FOI Act sets out irrelevant factors that cannot be taken into consideration with deciding whether to release information, which include, embarrassment or loss of confidence, misinterpretation or misunderstanding, the seniority of the author of the document, or confusion or unnecessary debate. Where the business area identifies these types of sensitivities in the document(s), the business area and Divisional FOI Coordinator may brief their reporting line in order to consider issues management activities.

Outcome: The FOI Section is advised of any potential harms identified by the business area.

3.8 Final assessment of potential harms

The FOI Section undertakes a final assessment of potential harms having regard to the FOI Act, the FOI Guidelines issued by the Information Commissioner, advice from the business area, submissions from third parties, and any other relevant information.

Outcome: The FOI Section has collated documents, evidence and submissions within the TRIM OBJ, in order to prepare the draft decision for consideration by the decision maker in Stage 4 *Decision-making*.

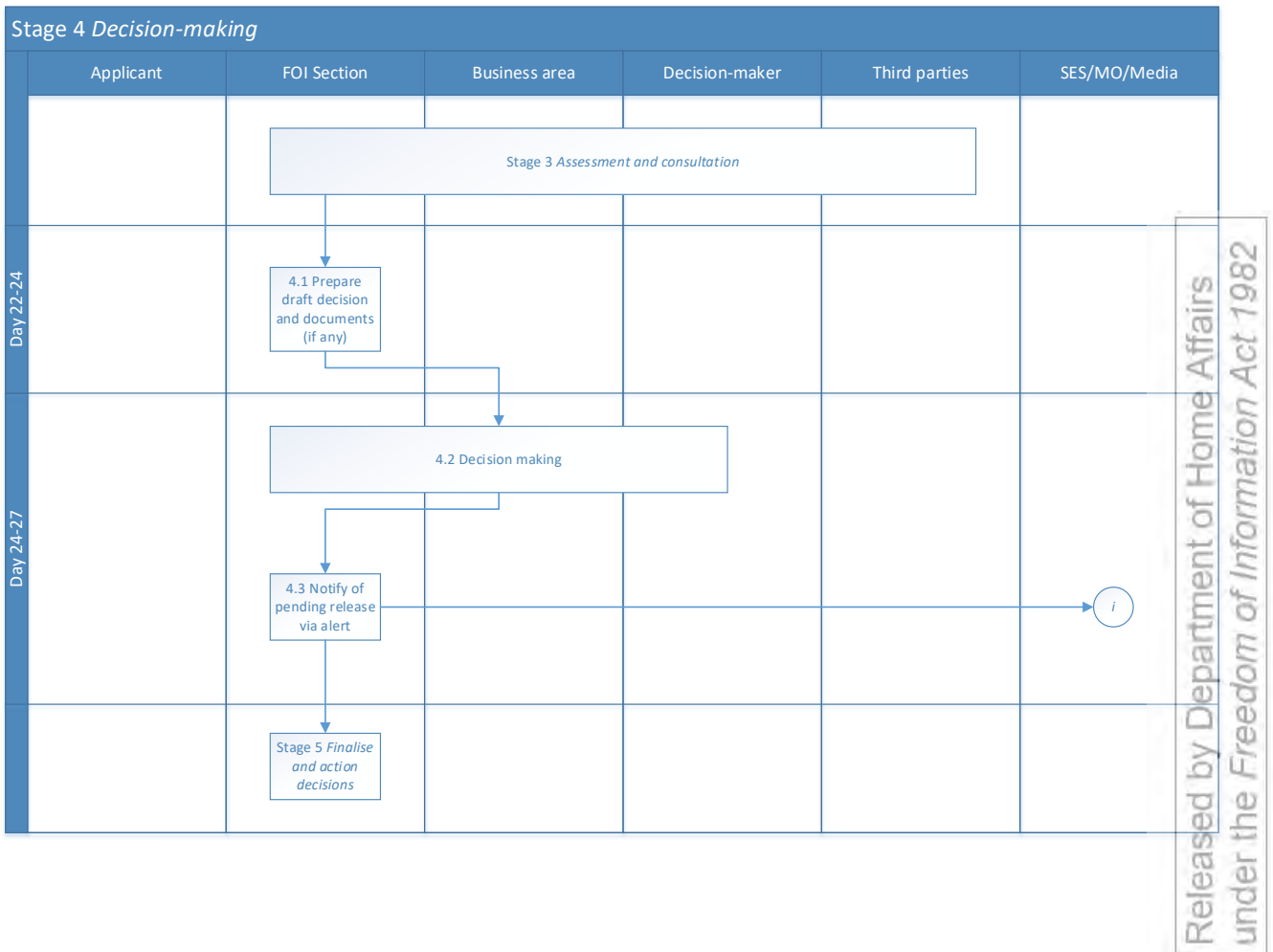
4 Decision-making

In Stage 4 *Decision-making*, the FOI Section prepares a decision letter and package of documents to be released (if any), with redactions (if any). Any consultation between the FOI Section and one or more business areas may occur until the decision is made.

Action in this stage is shared between the FOI Section and the decision maker (which will be a staff member in FOI unless the case is sensitive).

The outcome of this stage is a decision on the access request. Key stakeholders are alerted to pending decisions on sensitive requests.

An A3 PDF version of this chart is available at [ADD2021/6752763](https://www.gov.uk/government/uploads/attachment_data/file/675276/ADD2021/6752763.pdf).



4.1 Prepare draft decision and documents (if any)

The FOI Section prepares the decision package, including any redacted documents and an access decision (section 26 statement of reasons), schedule of documents (where appropriate) and a marked-up copy of the documents for release (if any).

Outcome: Draft decision and package of redacted documents (if any) is prepared.

4.2 Decision making

For most requests for personal information, the decision maker will be the same FOI staff member who has actioned the redactions. They will finalise their decision by approving the decision letter and adding their first name and position number on the decision record.

If the request is *sensitive*, an SES officer from the business area will be the decision maker.

In these cases, FOI will provide a draft package for their consideration and, once satisfied, the decision maker will sign the decision and provide to FOI.

Outcome: The decision is made.

4.3 Notify of pending release via alert

For sensitive requests, the FOI Section sends an email to the *alert distribution list* to advise of the intended release, to enable finalisation of talking points and any other strategy to address potential misunderstandings.

Outcome: Officers on the alert distribution list have been notified of the intended decision.

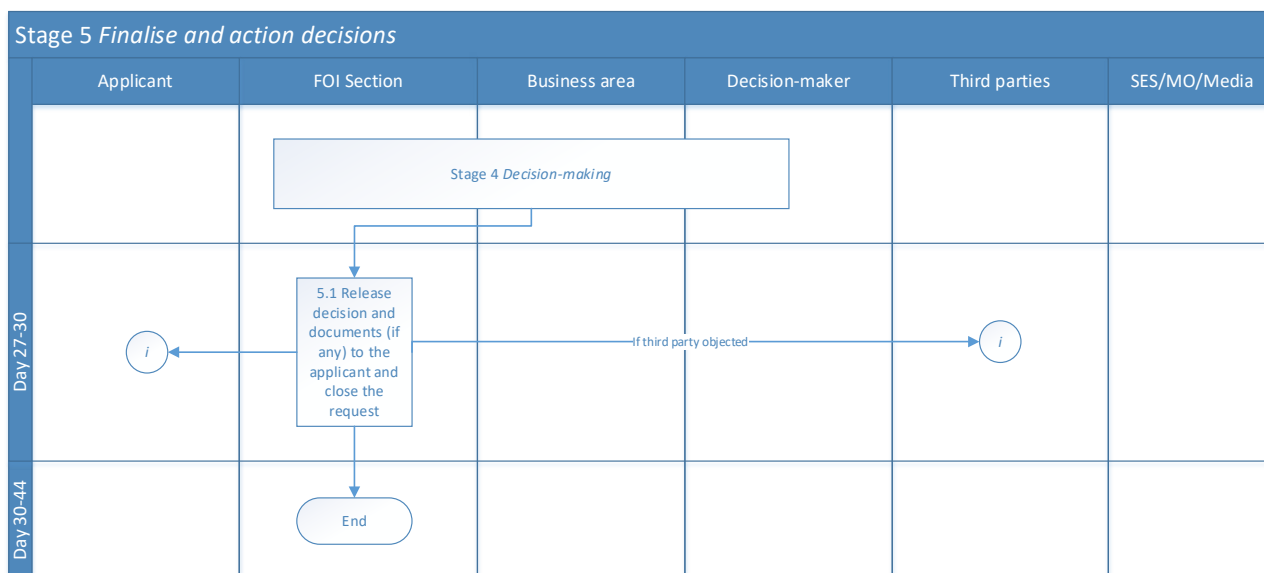
- The FOI Section proceeds to Stage 5 *Finalise and action decisions*.

5 Finalise and action decisions

In Stage 5 *Finalise and action decisions*, the FOI Section sends the access decision and documents (if any) to the applicant.

The outcome of this final stage is an access decision provided to the applicant and finalisation of the request.

An A3 PDF version of this chart is available at [ADD2021/6752745](https://www.foi.gov.au/ADD2021/6752745).



5.1 Release decision and documents (if any) to the applicant and close the request

The FOI Section issues the document package, including the statement of reasons, schedule and documents (if any), to the applicant and closes the request in Resolve.

Where the FOI Section decides to give the applicant access to documents after a third party has objected, the third party must be given notice of the decision and their review rights (subsections 27(6) and 27A(5)), and the applicant is only given access to the document when the third party's opportunities for review have run out (subsections 27(7) and 27A(6) of the FOI Act).

Outcome: The applicant has received the decision and any documents. The file is closed.

Large files

The FOI Section may save the document package on Compact Discs where the request relates to a large amount of information and it is not practical to send the document package by post or email. In these cases, Compact Discs can be posted, or the FOI section can arrange a time for the applicant to access the information at a departmental location.

Regular review

The Department is committed to continuous business improvement. The FOI Section will consider the practical use of this PI on a regular basis. The FOI Section will propose adjustments to the PI to ensure it remains the most effective and efficient means of processing FOI requests.

Accountabilities and responsibilities

For further details see Scope section of this document.

Role	Description
FOI Section	Responsible for administering all aspects of the FOI Act on behalf of the Department.
Decision maker (see definitions)	Accountable for statutory decisions on requests for access and/or amendment.
Senior Executive Service Band 2 / Group Manager of business area	Responsible for FOI requests assigned to their business area.
Divisional FOI Coordinator (usually divisional Executive Officer) of business area	Responsible for supporting compliance with all aspects of the FOI process within their business area.
Business areas	Provides access to personal information through the Privacy Act and provides documents to FOI section where required

Version Control

Version number	Date of issue	Author(s)	Brief description of change
0.1	25/07/2022	FOI Section	For distribution to FAS level
0.2	29/08/2022	FOI section	Response to PPCF quality checking
0.3	02/09/2022	FOI section	Edits included as advised by PPCF quality checking process
0.4	20/09/2022	FOI section	Updates post legal review
1.0	28/09/2022	FOI section	Endorsement by CDO ready for publishing to PPCF

Attachment A – Definitions

Term	Abbreviation (if applicable)	Definition
Alert distribution list		<p>Alerts on <i>sensitive</i> requests allow time to construct briefings and prepare talking points. Staff on the alert distribution list include:</p> <ul style="list-style-type: none"> • the Senior Executive reporting line for the relevant business area(s) and the relevant Minister(s). • any other Senior Executives who have advised the FOI Section they have a requirement to be informed. • Executive Coordination contacts. • Chiefs of Staff contacts. • Media Operations. • MO registration. • FAS Data Division and AS FOI & Records Management.
Australian Information Commissioner	Information Commissioner	As defined by the <i>Australian Information Commissioner Act 2010</i> .
Business area		The Division (or work unit within a Division) which holds the information and/or subject matter expertise on documents or information within scope of the request.
Commonwealth record		All information created, sent and received in the course of carrying out the business of the Commonwealth.
Decision maker		<p>An officer of the Department acting within the scope of authority to make FOI decisions as defined in section 23(1) of the FOI Act.</p> <p>This power is delegated according to <u>Freedom of Information (Secretary of the Department of Home Affairs) Authorisation 2021 (ADMIN21 105)</u>.</p> <p>Decision makers must complete FOI training prior to making FOI decisions.</p>
Diversion of resources / practical refusal		A request may be refused for a practical refusal reason as defined in section 24AA.
Document		<p>As defined in section 4, Interpretation of the FOI Act.</p> <p>A document does not include material maintained for reference material purposes that is otherwise publicly available.</p>

Term	Abbreviation (if applicable)	Definition
<i>Freedom of Information Act 1982</i>	FOI Act	The FOI Act provides a legal framework to publish operational information, provide access to information, or amend personal information held by Government.
Information Champion		The SES Band 2 officer with responsibility for the FOI function, and leadership of the Department's compliance with the FOI Act.
Personal FOI request		<p>FOI requests that are requests for information about an individual made by that individual or someone connected to that individual. Examples include but are not limited to:</p> <ul style="list-style-type: none"> • An applicant asking for their visa record • An applicant asking for information about their parent's arrival in Australia • An agent, lawyer or friend asking for information on behalf of the applicant about the applicant's detention record.
Potential harms		<p>Including:</p> <ul style="list-style-type: none"> • Interference with operations of the Department • Interference with personal privacy • Harm to Department's reputation in handling information provided in confidence (e.g. border watch reports) • Threat to ability to uphold national security • Unintentionally waiving legal privilege • Harm to commercial operations of the Department or service provider • Harm to the Australian economy <p>Harm does not include mere embarrassment or that the release of the document could cause confusion.</p>
Object box container	OBJ	Object box containers are used to group files that hold similar information in TRIM.
Office of the Australian Information Commissioner	OAIC	The independent national regulator for privacy and freedom of information led by the Australian Information Commissioner.
Personal information		Information or an opinion about an identified individual, or an individual who is reasonably identifiable, as defined in the <i>Privacy Act 1988</i> .

Term	Abbreviation (if applicable)	Definition
Practical refusal reasons		The FOI Act provides a power to refuse a request where a practical refusal reason exists (section 24). Practical refusal reasons are where processing the request would substantially and unreasonably divert the resources of the Department from its other operations, or where the applicant does not provide sufficient information about the document requested to enable the Department to identify it.
<i>Urgent</i> personal FOI request		<p><i>Urgent</i> personal requests are requests that:</p> <ul style="list-style-type: none"> • relate to a Court Hearing or Administrative Appeals Tribunal hearing date scheduled within the next 30 days. • relate to a person currently in immigration detention, who require information quickly. • require information to be provided quickly for compassionate reasons (for example a copy of a marriage certificate for someone who is experiencing family violence).
<i>Sensitive</i> personal FOI request		<p>s. 47E(d)</p> <ul style="list-style-type: none"> ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED]
Third party		<p>A third party may be a state, a business, a government agency, an organisation or a person who may wish to make a submission regarding potential harm on the release on documents.</p> <p>Some consultation is required by the FOI Act. For example, the Department must consult a third party where documents subject to a request are:</p> <ul style="list-style-type: none"> • documents affecting Commonwealth-State relations (section 26A). • business documents (section 27).

Term	Abbreviation (if applicable)	Definition
		<ul style="list-style-type: none"> documents affecting another person's privacy (section 27A). <p>Consultation with other third parties is not mandatory.</p>
Total Records and Information Management	TRIM	TRIM is the Department of Home Affairs Electronic Document and Record Management System that provides the framework to capture, manage and share critical business information.
Valid request		A request that meets the requirements of subsection 15(2) of the FOI Act.

Attachment B – Assurance and Control Matrix

Powers and Obligations

Please Note: Staff exercising any powers, delegations or authorisations outlined in this PI (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this power delegated?	If delegated, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Section heading/provision description		
<i>Freedom of Information Act 1982</i>	Section 3A(2)	Allow access to all documents as requested, even if some are exempt	Yes	(ADMIN 21/105) <u><i>Freedom of Information (Secretary of the Department of Home Affairs) Authorisation 2021</i></u>
	Section 11A(4)	Withhold all requested documents as exempt, or withhold some documents and allow access to others		
	Section 15	Refuse a request that does not meet the formal requirements for making a request		
	Section 22	Delete exempt or irrelevant material from documents and provide access to edited copies		
	Section 24	Refuse access under s 24A on the basis that the document sought does not exist, cannot be found or was not received from a contractor		
	Section 24AA	Refuse a request if a practical refusal reason exists, following a request consultation process		
	Section 26	Reasons and other particulars of decisions to be given		
<i>Privacy Act 1988</i>	Schedule 1	Australian Privacy Principles (APP), especially APP 12	No	N/A

Controls and Assurance

Related Policy	Freedom of Information – Policy Statement (SM-3357)
Procedures / Supporting Materials	Nil
Training/Certification or Accreditation	Nil
Other required job role requirements	Nil
Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	FOI Section foi@homeaffairs.gov.au
Escalation arrangements	Director, FOI Section foi@homeaffairs.gov.au
Recordkeeping (e.g. system based facilities to record decisions)	TRIM
Program or Framework (i.e. overarching Policy Framework or Business Program)	Freedom of Information
Job Vocational Framework Role	Information Management

Attachment C – Consultation

Internal Consultation

All FAS level staff and Divisional FOI Coordinators across the Department (including the ABF), and Legal Group were consulted on this PI.

Attachment D

In some circumstances, the FOI Section can complete search and retrieval of relevant documents on behalf of the business area. This may mean that the business area does not need to be involved in the FOI. Some examples of common types of information and who completes search and retrieval tasks include:

Common types of personal information	Records found in	Conducting search and retrieval
Visa decisions and information relating to those decisions	TRIM and ICSE	FOI Section
Citizenship decisions and information relating to those decisions	TRIM and ICSE	FOI Section
Detention files, including risk assessments and placement decisions		Business area
Cancellation decisions and information relating to those decisions	TRIM and ICSE	FOI Section
Ministerial intervention decisions	PDMS, ICSE, TRIM, CCMD	Business area
Movements or passenger cards (when combined with requests for other information)	TRIPS, PCIS	FOI Section
Individuals in regional processing locations outside of Australia		Business area
Information about travel exemptions		Business area
Documents held by contracted service providers such as SERCO	Service provider record keeping systems	Business area
Incident reports, client case review claims and other records held in CCMD	CCMD	Business area

If the document is unable to be found, but is known to exist, the business area will be asked to assist.

In making a decision as to whether the FOI Section will conduct search and retrieval on behalf of a business area, the following will be considered:

- whether the business area has sufficient mechanisms upfront to provide clients commonly requested information.
- if resources would be required to conduct search and retrieval, and if so, would those be provided

- if records are digitised.
- if the system is accessible to FOI officers.
- the level of training and systems support provided to FOI officers.



OFFICIAL

Processing non-personal Freedom of Information requests

Procedural Instruction

Document ID (PPN)	TI-6738
TRIM Record Number	ADD2022/4168870
BCS Function	Technology and Information Management
Document Owner	First Assistant Secretary, Data Division (Information Champion)
Approval Date	November 2021
Document Contact	Freedom of Information Section foi@homeaffairs.gov.au

Released by Department of Home Affairs
under the Freedom of Information Act 1982

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Purpose

This Procedural Instruction (PI) sets out the process the Department of Home Affairs (the Department), incorporating its operational arm, the Australian Border Force (the ABF), follows in managing and responding to non-personal requests made under the *Freedom of Information Act 1982* (the FOI Act). Non-personal Freedom of Information (FOI) requests are requests that are not for the applicant's personal information. These requests may be for information about policy-making, administrative decision-making, government service delivery and/or expenditure of public funds.

This PI acts as an operational manual for the FOI Section and all other staff of the Department who may have a role in processing FOI requests. The document describes the operational processes and procedures in detail by breaking down the end-to-end process into stages and identifying, within each stage, how the process flows and who is responsible for tasks and activities.

Each stage has a summary flowchart to aid understanding and allow people to visualise the flow of the process across the Department. A guide for how to read the flowcharts is on page 4.

This PI is related to the Freedom of Information – Policy Statement (PS) (SM-3357). The PS sets out accountabilities and responsibilities for staff in relation to FOI.

Scope

This PI covers the processing of requests for non-personal information made to the Department under the FOI Act, including requests accepted on transfer from other agencies under section 16 of the FOI Act.

FOI requests for personal information, amendment or annotation of personal information, internal and external review of FOI decisions, Information Publication Scheme activities, other than publication on the Department's disclosure log, and FOI requests to a Portfolio Minister are out of scope of this PI.

Regular review

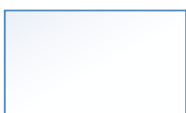



The Department is committed to continuous business improvement. The FOI Section will consider the practical use of this PI on a regular basis, and at least once every six months. The FOI Section will propose adjustments to the PI to ensure it remains the most effective and efficient means of processing FOI requests.

How to read this document

This document provides flowcharts for each of the five stages of processing an FOI request. More information on swim lane flow charts is available [here](#). The flowcharts consist of six participants (the applicant, the FOI Section, the business area, the decision-maker, third parties and SES/Minister's Office (MO)/Media). A participant may be a single person or consist of multiple people or teams.

Each step in the flowchart is numbered and is explained at the corresponding numbered paragraph in this document. The description includes the required outcome or output in order for the step to be considered complete.

Flowchart key

Symbol	Description
	The location of each activity box indicates the participant(s) involved in that step. If an activity box covers more than one participant's lane, involvement of both or all of those participants is required to complete the task. The lane the line enters a box is the role who leads on the activity and is responsible for its completion.
	Indicates a decision point where the outcome of the decision determines the appropriate next step in the process.
	The participant has been provided with information. The participant is not required to do anything in response.
	The arrow enters the activity box in the lane of the participant with primary responsibility for delivering the required outcome or output for that step. The lane the line enters a box is the role who leads on the activity and is responsible for its completion.

Procedural Instruction

High level process for non-personal FOI requests

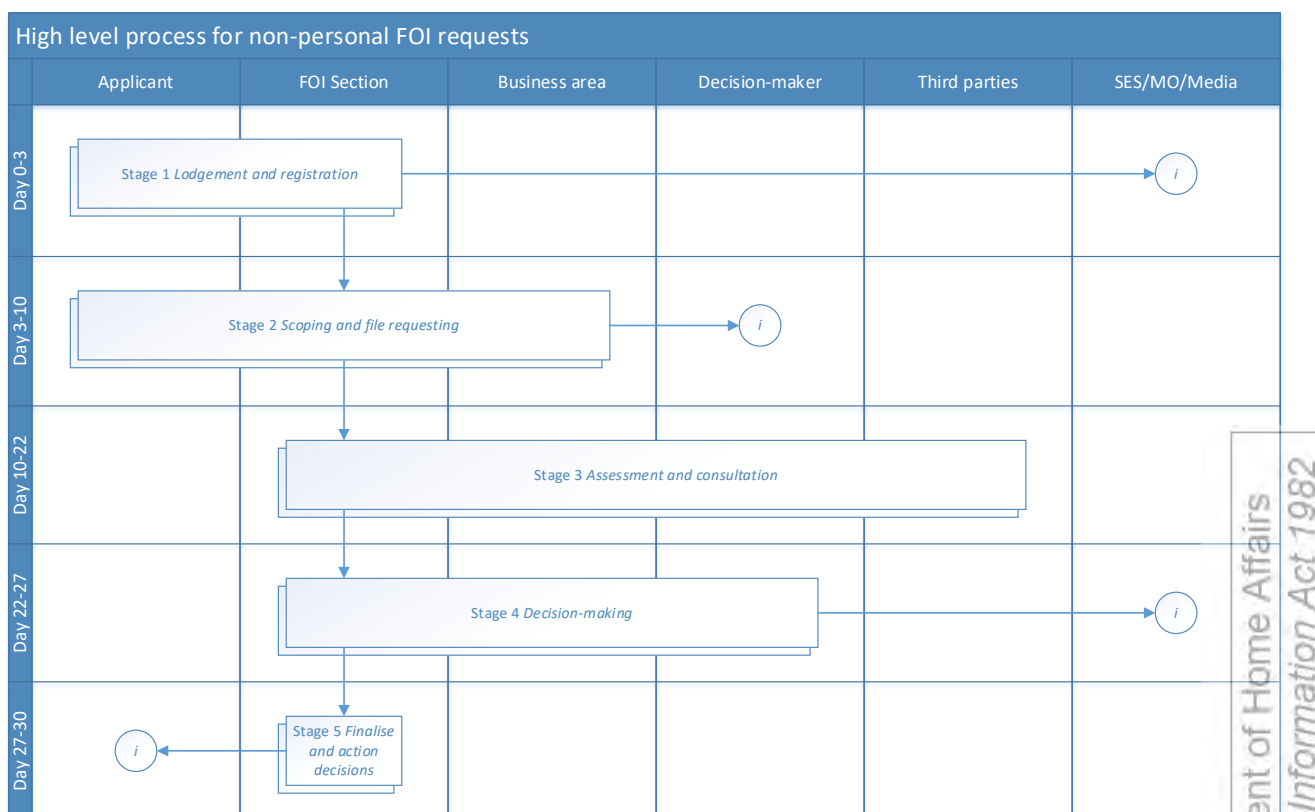
There are five stages to the Department's process for handling non-personal FOI requests:

- Stage 1 *Lodgement and registration*
- Stage 2 *Scoping and file requesting*
- Stage 3 *Assessment and consultation*
- Stage 4 *Decision-making*
- Stage 5 *Finalise and action decisions.*

An overview of each stage is included in this section. Each subsequent section of this document details each stage in turn.

The chart below illustrates the involvement of each of the different parties in each of the five stages.

An A3 PDF version of this chart is available at [ADD2021/2413872](https://www.accessinformation.ca/ADD2021/2413872).



Lodgement and registration

Stage 1 *Lodgement and registration* starts when the Department receives an FOI request. Action in this stage is predominantly with the FOI Section.

During this stage, the FOI Section assesses the request against the formal requirements of an access request under the FOI Act, registers the request in the Department's FOI case management system, Resolve, and creates a container to save all material related to the request in the Department's Electronic Document and Records Management System, TRIM.

The FOI Section closes some requests in this stage, due to being invalid, withdrawn, *deemed withdrawn* or transferred to other agencies.

The outcome of this stage is a registered valid request and an identified business area within the Department responsible for progressing the request.

Scoping and file requesting

In Stage 2 *Scoping and file requesting*, the FOI Section seeks documents from relevant business area(s). Business area(s) provide advice as to potential harms and sensitivities and any necessary consultation.

Action in this stage is predominantly with the business area(s).

The outcome of this stage is identified documents being provided to the FOI Section for assessment along with advice on the time spent searching for, retrieving or producing those documents.

Assessment and consultation

In Stage 3 *Assessment and consultation*, the FOI Section assesses the documents in scope of the request. FOI section will estimate and notify the applicant of charges (if any) and considers requests for a reduction or waiver of the charges. FOI Section undertakes any necessary consultation with other Commonwealth agencies and/or third parties.

Action in this stage is predominantly with the FOI Section, with input sought from other agencies and third parties.

The outcome of this process is the applicant being notified of estimated charges (if any), a deposit is paid if estimated charges are over \$25 and an assessment of potential harms and sensitivities to inform decision-making.

Decision-making

In Stage 4 *Decision-making*, the FOI Section prepares a draft decision letter and package of documents to be released (if any), with redactions (if any) and provides it to the decision-maker. Consultation between the decision-maker, the FOI Section and one or more business areas may occur until the decision-maker is satisfied with the decision. Once the decision is finalised, the FOI Section will calculate the final charges and advise the applicant.

Action in this stage is shared between the FOI Section and the decision-maker.

The outcome of this stage is a signed decision on the access request and the applicant is notified of the final charges that must be paid. Key stakeholders are alerted to pending decisions on *sensitive* requests.

Finalise and action decisions

In Stage 5 *Finalise and action decisions*, the FOI Section sends the access decision and documents (if any) to the applicant. Where documents are released and it would not be unreasonable to make these available to the public, the FOI Section arranges publication on the Department's FOI disclosure log.

Action in this stage is predominantly with the FOI Section.

The outcome of this final stage is charges (if any) are paid in full and an access decision provided to the applicant, finalisation of the request and the publication of disclosed material where appropriate.

1. Lodgement and registration

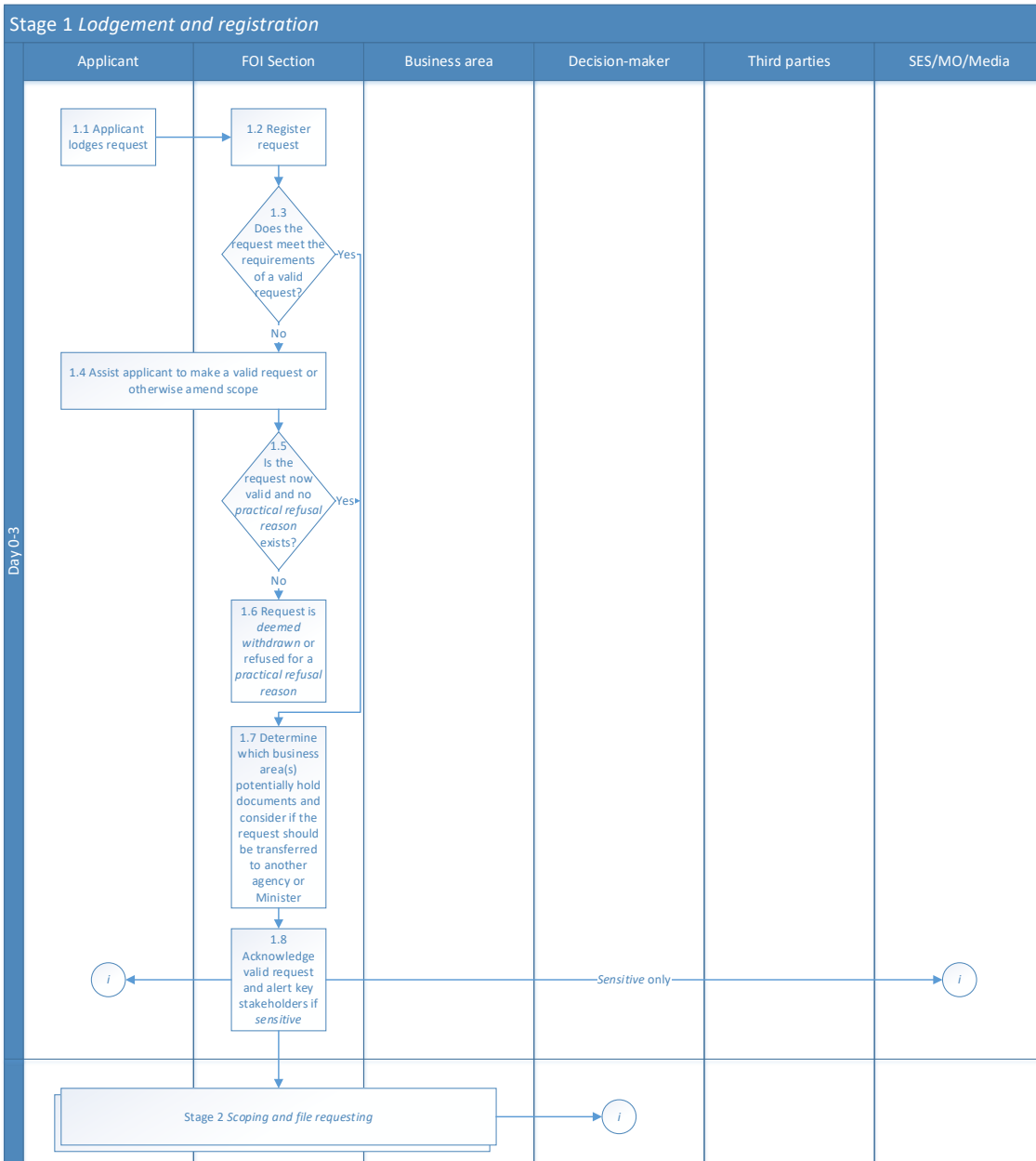
Stage 1 *Lodgement and registration* starts when the Department receives an FOI request. Action in this stage is predominantly with the FOI Section.

During this stage, the FOI Section assesses the request against the formal requirements of an access request under the FOI Act, registers the request in the Department's FOI case management system, Resolve, and creates a container to save all material related to the request in the Department's Electronic Document and Records Management System, TRIM.

The FOI Section closes some requests in this stage, due to being invalid, withdrawn, deemed withdrawn or transferred to other agencies.

The outcome of this stage is a registered valid request and an identified business area within the Department responsible for progressing the request.

An A3 PDF version of this chart is available at [ADD2021/2413930](#).



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1.1 Applicant lodges request

The applicant lodges a request for documents with the Department, by:

- email to one of the Department's specified email addresses;
- completing the 'Access to information' online form available on the Home Affairs website;
- post addressed to the Department; or
- delivery of the request in person to a central or regional office of the Department.

If a business area receives an FOI request, the business area must immediately forward the request to the FOI Section (foi@homeaffairs.gov.au).

- For requests received by post or in person at a central or regional office, the time of receipt is the date of delivery.
- For requests received by email, the time of receipt is the date the request was received at the email address the Department has specified for FOI requests (foi@homeaffairs.gov.au).

Outcome: The FOI Section has a written FOI request.

1.2 Register request

The FOI Section opens a non-personal request case in the case management system, Resolve, and assigns a case number. The FOI Section creates an *object box container (OBJ)* in TRIM to hold all records related to the request and references the *OBJ* in the case in Resolve. Information about the status of non-personal requests is available on ourData in the [FOI Non-personal On-hand Caseload Dashboard](#).

The FOI Section categorises non-personal requests as either *sensitive* or *routine*, and records this categorisation in Resolve at registration. *Sensitive non-personal requests* are requests that most align to the objects and purpose of the FOI Act, being non-personal requests which facilitate transparency and public discourse in government activities, inform debate on a matter of public importance and promote effective oversight of public expenditure. Non-personal requests requiring consideration of a cabinet documents or consultation with another Australian government department or agency must be classified as Sensitive.

Routine requests are all other non-personal FOI requests which are not categorised as sensitive. Examples may include requests for general statistical information, documents about policy-making, administrative decision-making and government service delivery.

Outcome: The request is registered in Resolve, a TRIM *OBJ* container exists, and the request is visible across the Department for monitoring and escalation purposes.

1.3 Does the request meet the requirements of a valid request?

The FOI Section determines whether the request has met the formal requirements of a request under subsection 15(2) of the FOI Act. A request for documents under the FOI Act must meet the following formal requirements:

- be made in writing;
- state that it is a request for the purposes of the FOI Act;
- provide such information as is reasonably necessary to enable a responsible officer of the Department to identify the document requested; and
- give details of how notices under the FOI Act may be sent to the applicant.

The FOI Section is to take a flexible approach when assessing whether the applicant has met the requirement to state that the request is an application for the purposes of the FOI Act. For example, if it is clear the applicant intended to make a request under the FOI Act, and addressed their request to the FOI Section, it will be taken to be a request under the FOI Act.

Every person has a legally enforceable right to apply for access to a document of an agency or an official document of a Minister (subsection 11(1)). An applicant does not have to reside in Australia or be an Australian citizen. The term 'person' also includes a body politic or body corporate, such as a company.

Outcome(s):

- If the request meets the requirements: the FOI Section proceeds to step 1.7. The timeframe for making a decision on the request has commenced; or
- If the request does not meet the requirements: the FOI Section proceeds to step 1.4. The timeframe for making a decision on the request has not yet commenced.

1.4 Assist applicant to make a valid request or otherwise amend scope

If the request does not meet the formal requirements of an FOI request under subsection 15(2), the FOI Section assists the applicant to complete or revise their request under subsection 15(3) of the FOI Act.

The Department has a duty to take reasonable steps to assist a person to make a request that complies with the formal requirements of the FOI Act (subsection 15(3)). Reasonable steps include providing the applicant with any information that would assist the applicant to revise their request and giving the applicant a reasonable opportunity to consult with a contact person in the FOI Section.

The FOI Section consults informally with the applicant in circumstances where it considers the issues with the scope could be easily rectified (for example, where it is apparent the request was intended to relate to a specific date range but one of the dates was not included). As this method of consultation is used where rectification should be simple, the applicant will be given a period of 24 hours to respond.

Practical refusal reasons

The FOI Act provides a power to refuse a request where a *practical refusal reason* exists (section 24).

Practical refusal reasons are where processing the request would substantially and unreasonably divert the resources of the Department from its other operations, or where the applicant does not provide sufficient information about the document requested to enable the Department to identify it (section 24AA).

Before refusing the request, the FOI Section will undertake consultation with the applicant under section 24AB. This involves providing a notice of the Department's intention to refuse the request for a practical refusal reason (subsection 24AB(2)), that the applicant has 14 days in which to respond (subsection 24AB(2)(e)), and that if the applicant does not respond within the specified timeframe, the Department will consider their request withdrawn (subsection 24AB(7)).

The time the FOI Section spends in formal consultation with the applicant to assist them to make a valid request is not included in the 30 day processing timeframe. The processing period does not restart until the request is valid and the practical refusal reason does not exist (subsection 24AB(8)).

During the formal consultation period, the applicant may:

- withdraw their request;
- make a revised request;
- indicate that they do not wish to revise their request; or
- not engage with the Department.

Where the applicant withdraws the request, the FOI Section updates the status of the request to withdrawn. The case is closed in Resolve and all records are saved in TRIM.

Where the applicant does not engage with the Department, the request is deemed to be withdrawn (subsection 24AB(7)).

Requests for documents open to public access and not available under the FOI Act

The FOI Section will also consult the applicant where the request is for a document open to public access or is a request for personnel records.

A person cannot obtain access to a document under the FOI Act if the document is already publicly available in accordance with other legislation where a charge applies (such as a land title register), or if the document is available for purchase from the agency or is available under the *Archives Act 1983* (unless the document contains personal information). The FOI Section advises the applicant where a request is for documents open to public access.

Outcome: The applicant has had the opportunity to make a valid request and/or revise the scope of their request, with one of the following results:

- The request has been withdrawn: the FOI Section updates the status of the request to 'withdrawn' and **the file is closed**; or
- The applicant wishes to proceed with the request, whether revised or not: the FOI Section proceeds to step 1.5; or
- The applicant has not engaged with the Department: the request is deemed to be withdrawn: the FOI Section proceeds to step 1.6.

1.5 Is the request now valid and no *practical refusal reason* exists?

The FOI Section assesses the outcome of consultation with the applicant to determine whether the request now meets the requirements of a request under the FOI Act and can be processed.

Where the applicant has revised the scope or provided additional information to enable FOI Section and the business area to identify the document(s) requested, the FOI Section proceeds with processing the request.

Where the applicant has not revised the scope of the request, or has revised the scope but the Department considers the practical refusal reasons still stands, the FOI Section refuses the request.

Outcome(s):

- If the request is valid and a practical refusal reason does not exist, the FOI Section proceeds to step 1.7. The timeframe for making a decision on the request has commenced; or
- If a practical refusal reason exists, the FOI Section proceeds to step 1.6.

1.6 Request is *deemed withdrawn* or refused for a *practical refusal reason*

Where the applicant does not engage with the FOI Section in response to a request consultation process within the required 14 day consultation period, or otherwise fails to respond to a request for clarification by the date specified in correspondence, their request is *deemed withdrawn* under section 24AB(7). The case is closed in Resolve and all records are saved in TRIM.

Where the applicant has responded to a request consultation process and has either indicated that they do not wish to revise the request, or has revised the request in such a way that the *practical refusal reason*

remains, the FOI Section makes a decision under subsection 24(1)(b) to refuse the request and send this decision to the applicant. The case is closed in Resolve and all records are saved in TRIM.

Outcome(s):

- If the applicant has not engaged with the FOI Section, the request is *deemed withdrawn*. **The file is closed.**
- If the applicant has engaged but the practical refusal reason still exists, the request is refused. The status is updated to 'refused for *practical refusal reason*' and **the file is closed.**

1.7 Determine which business area(s) potentially hold documents and consider if the request should be transferred to another agency or Minister

The FOI Section considers the scope of the request and determines which business areas potentially hold documents in scope of the request.

Assist applicant to direct request to the appropriate agency or Minister

It may be obvious from the scope of the request that the request (or part of it) would be better directed to another agency or Minister.

Separate from whether a request meets the requirements under subsection 15(2), the Department has a duty under subsection 15(4) to take reasonable steps to assist the applicant to direct their request to the appropriate agency or Minister. This duty may arise, for example, if the document requested is not in the possession of the Department but is known, or likely to be, in the possession of another agency or Minister. The FOI Section takes all reasonable steps to assist the applicant to direct their request to the appropriate agency or Minister. Reasonable steps include advising the applicant if the document requested is known or likely to be in the possession of another agency or Minister, and taking into account factors such as the applicant's level of knowledge of the structure of government and functions of agencies.

Where the applicant does not wish to redirect their request, the Department retains the statutory obligation to process the request, whether through transfer to the appropriate agency or Minister under section 16, or by conducting reasonable searches and refusing the request under section 24A on the basis that the documents do not exist or cannot be found.

Administrative access

As an alternative to processing as an FOI request, the FOI Section, in coordination with the business area, may consider administrative access as an option to release information outside the FOI process. Administrative access can be used to provide information relating to the Department's key functions and activities, information available on the Department's websites or documents that would be released in full if the request were made under the FOI Act.

Providing access to documents through an administrative access arrangement may offer a faster processing time, particularly in cases where the documents are to be released in full. Where a document is likely to contain a substantial number of redactions, or require consultations with third parties, it will generally be appropriate to process the request under the FOI Act.

Where an applicant has made an FOI request that could be dealt with via administrative access, the FOI Section makes contact to request the applicant provide consent to withdraw the FOI request and have the documents released administratively.

Outcome(s):

Either:

- The request is closed as:
 - The request has been directed to another agency; or
 - The request has been transferred to another agency; or
 - The request has been withdrawn by the applicant because they have obtained the information through administrative access; or
- The request is open and the FOI Section has identified which business areas hold documents in scope. The FOI Section proceeds to step 1.8.

1.8 Acknowledge valid request and alert key stakeholders if sensitive

The FOI Section sends an acknowledgement of the request to the applicant no later than 14 days after the receipt of the request (paragraph 15(5)(a)).

As part of the acknowledgment of receipt notice, the FOI Section advises the applicant that the Department considers personal details of staff (not in the Senior Executive Service (SES)), as well as the direct contact details of SES staff, to be irrelevant under subparagraph 22(1)(a)(ii) of the FOI Act and that such information will be redacted from any documents to be released unless the applicant requests otherwise.

Alerts for sensitive requests

Where a valid non-personal FOI request is identified as *sensitive*, the FOI Section sends an alert to the relevant *alert distribution list* to notify of the new request. The *alert distribution list* includes SES responsible for FOI, Executive Coordination, Chiefs of Staff, Media Operations and Ministerial Offices, as well as identified contacts in the business areas determined to potentially hold documents in scope of the request. Other Senior Executives may advise FOI they have a requirement to be informed in relation to particular issues and the FOI Section adds them to relevant *alert distribution lists*.

The FOI Act sets out irrelevant factors that cannot be taken into consideration with deciding whether to release information, which include misinterpretation or misunderstanding. The Department's alert process ensures Ministers and senior staff are ready to address potential misinterpretation or misunderstanding which may arise as a result of the release of information.

Divisional FOI Coordinators are responsible for coordinating issues management relating to information being released through the FOI process, with the advice and support of the FOI Section where appropriate. This includes any briefings required for the Senior Executive and Ministers' Offices on the implications and sensitivities of release of the information, and for the Divisional FOI Coordinator, decision-maker and business area to arrange preparation of talking points where required.

Officers on the *alert distribution list* are notified at the Stage 1 *Lodgement and registration* stage and the Stage 4 *Decision-making* stage of the non-personal FOI request process, in order to ensure key stakeholders are fully briefed and talking points and media resources are prepared.

Outcome: The applicant has received acknowledgment of their request.

- Where the request is *sensitive*, staff on the *alert distribution list* have been notified by the FOI Section of the receipt of the request.
- The FOI Section proceeds to Stage 2 *Scoping and file requesting*.

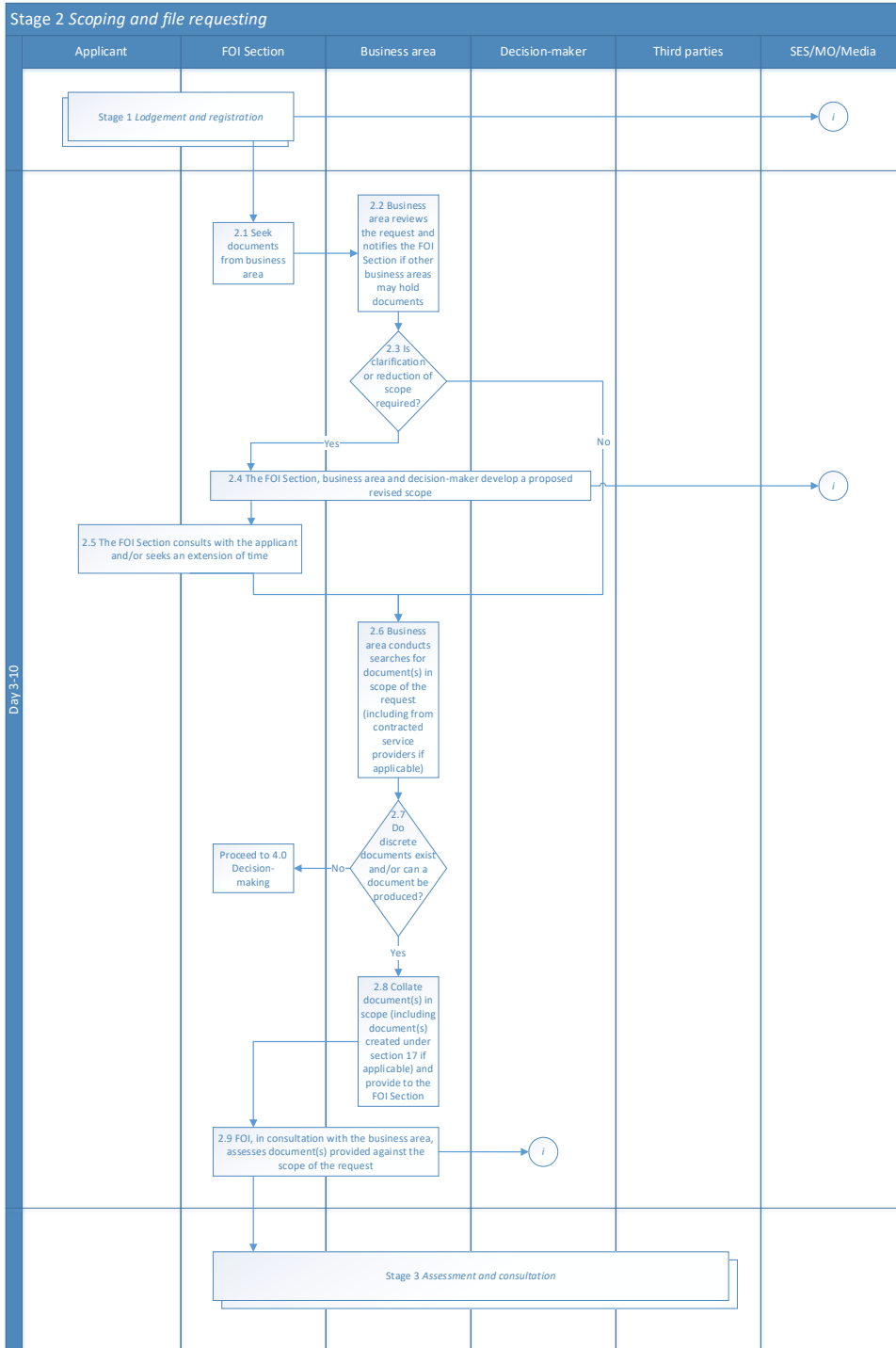
2. Scoping and file requesting

In Stage 2 *Scoping, and file requesting*, the FOI Section seeks documents from relevant business area(s). Business area(s) provide advice as to potential harms and sensitivities and any necessary consultation.

Action in this stage is predominantly with the business area(s).

The outcome of this stage is identified documents being provided to the FOI Section for assessment along with advice on the time spent searching for, retrieving or producing those documents.

An A3 PDF version of this chart is available at [ADD2021/2414063](#).



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2.1 Seek documents from business area

The FOI Section sends an email to the *Divisional FOI Coordinator* in the business area(s) (determined at step 1.7) seeking documents in scope of the request.

The FOI Section assigns a case officer for the request.

The email provides a timeframe of seven (7) days for the search and retrieval of documents, recording of time taken and identification of potential harms, as well as the overall due date for the decision to be made. The email provides *FOI User Guides* for business areas and decision-makers and the contact details of the case officer in the FOI Section for support.

Where a request is categorised as *sensitive*, the FOI Section requests a decision-maker be appointed. The authority to make decisions under section 23 of the FOI Act is delegated by the Secretary to all SES level staff in the Department (including the ABF), and all APS3 to EL2 level staff in the FOI Section. This includes staff acting in these roles.

Appointing a decision-maker – *Routine* requests

The case officer in the FOI Section managing the processing of *routine* requests is also the decision-maker unless a team leader or Director in the FOI Section determines otherwise.

Appointing a decision-maker – *Sensitive* requests

The FOI Section notifies the business area, Divisional FOI Coordinator (usually the divisional Executive Officer), and accountable SES Band 2/Group Manager/nominal decision-maker of the responsibility to appoint a decision-maker for the request, and to search for documents relevant to the request. Where documents are held by more than one business area, the FOI Section determines the lead business area by assessing who has the largest number of documents or most relevant documents. The lead Division nominates a decision-maker. Guidance for decision-makers is available in *FOI User Guide – Decision-making* (ADD2021/2200702).

Decisions on *sensitive* non-personal FOI requests are made at the SES Band 1 level and above to enable assessment of the appropriate balance between transparent and accountable government with potential harms arising from release. The Divisional FOI Coordinator advises the FOI Section of the nomination of a decision-maker.

Outcome:

- The business area(s) identified by the FOI Section as likely to hold documents in scope of the request have received the request for documents.
- The business area and/or coordinator are aware of their responsibilities, including recording time taken, in relation to the request and the dates by which various actions must be completed.
- Where a request is *sensitive*, the FOI Section has sought a decision-maker from the business area, and the relevant SES Band 2/Group Manager and the Divisional FOI Coordinator have been notified of the request.

2.2 Business area reviews the request and notifies the FOI Section if other business areas may hold documents

The business area reviews the request to ensure the scope of the request is clear. It may assist to break the request down into specific criteria: type of document (e.g. correspondence; briefings; statistics); type of information and date range.

If documents are likely to be held in other business areas of the Department, the Divisional FOI Coordinator or business area contact must advise the FOI Section as soon as possible. The FOI Section subsequently

forwards the request to the additional business areas as soon as possible in order for the additional business area(s) to undertake search and retrieval activities.

In some circumstances the Department can seek to transfer the request, in whole or in part, to the relevant agency or Minister, with their agreement. If the documents held are more closely connected with the functions of another agency or Minister, the business area should advise the FOI Section as soon as possible for the FOI Section to seek transfer under section 16 of the FOI Act.

The business area may identify that a document is in the public domain and provide links to the information to the FOI Section.

Outcome: The FOI Section is aware if any other business areas likely hold documents and/or if documents are already published.

2.3 Is clarification or reduction of scope required?

The business area must advise the FOI Section, as soon as possible, if:

- they require clarification of scope (e.g. a date range);
- the scope of the request does not provide sufficient information to identify the documents requested;
- the request is complex or voluminous; or
- the request would involve a substantial and unreasonable diversion of resources.

Where a business area considers that a request is complicated or search results are large, the FOI Section may be able to seek an extension of time to manage the request or see if the applicant is willing to revise their request (see ADD2021/6294737). More guidance in relation to scope is available in the *FOI User Guide – Search and retrieval* (ADD2021/2312331).

Practical refusal considerations

Under the FOI Act, the Department may refuse a request if a *practical refusal reason* exists, after first undertaking a request consultation process with the applicant (subsection 24(1)). A *practical refusal reason* may exist if the request is unclear, too broad, or unreasonably large (section 24AA).

Where a business area considers the request is too broad or there is an extremely large number of documents to the extent that processing the request would involve a substantial and unreasonable diversion of resources, the business area should contact the FOI Section, and if possible, provide numbers and size of documents identified in preliminary searches, or provide a sample of files for the FOI Section to assess.

Additional guidance and a template to assist with practical refusal considerations is available in *FOI User Guide – Search and retrieval* (ADD2021/2312331).

Where the business area identifies the scope of a request is unclear, or that additional clarification of the scope is required from the applicant, the business area advises the FOI Section in order to seek clarification from the applicant (see step 2.5).

Records Management Section assistance

Where a business area cannot locate records, where files have been transferred to the Department in Machinery of Government changes, or where business areas require assistance to conduct counts to assist with determining size of holdings where there are large quantities of records, the Records Management Section via the TRIM Helpdesk provides support for searching records in TRIM.

Outcome: The business area has determined if they require clarification or additional information to identify the documents requested, and has advised the FOI Section accordingly.

2.4 The FOI Section, business area and decision-maker develop a proposed revised scope

Practical refusal

Where the FOI Section has assessed that a practical refusal reason exists, the Department may undertake formal consultation with the applicant, pursuant to section 24AB of the FOI Act (step 2.5).

Note: practical refusal reasons may arise in Stage 1, based on the FOI Section's initial assessment of the request (see step 1.4), or in this step, following business area consideration of the request and/or identification of documents.

Prior to consultation with the applicant, the FOI Section, business area and decision-maker review the scope of the request and wherever possible, develop a proposed refinement to the scope that would meet the implied intent of the request and would no longer provide grounds for practical refusal. The decision-maker determines whether the revised request would meet the implied intent of the original request. The revised scope should be a revision to the original scope request and not provide the details of documents, which have not yet been assessed for potential harms. This proposal will be suggested to the applicant as part of the practical refusal consultation (see 2.5).

Where the request is sensitive, the FOI Section sends an email to the *alert distribution list* to advise of the scope that will be suggested to the applicant, to notify stakeholders of the revised scope and enable business areas to prepare any other strategy to address potential misunderstandings.

Outcome: There is a proposed revised scope to present to the applicant so that if they accept the revised scope the process can move swiftly on.

2.5 The FOI Section consults with the applicant and/or seeks an extension of time

Based on 2.3 and 2.4, the FOI Section consults with the applicant on scope and/or seeks an extension of time.

This involves providing a notice of the Department's intention to refuse the request for a practical refusal reason, that the applicant has 14 days in which to respond, and that if the applicant does not respond within the specified timeframe, the Department will consider their request withdrawn.

The time the FOI Section spends in formal consultation with the applicant to assist them to revise their request is not included in the 30 day processing timeframe. The processing period does not restart until the request has been revised and the practical refusal reason no longer exists.

During the formal consultation period, the applicant may:

- withdraw their request;
- make a revised request;
- indicate that they do not wish to revise their request; or
- not engage with the Department.

Where the applicant withdraws the request, the FOI Section updates the status of the request to withdrawn. The case is closed in Resolve and all records are saved in TRIM.

Where the applicant does not engage with the Department, the request is deemed to be withdrawn (subsection 24AB(7)). The case is closed in Resolve and all records are saved in TRIM.

Informal consultation – Revision of scope

The FOI Section may instead undertake informal consultation where a practical refusal reason does not exist but it would assist the Department (and in turn the applicant by providing documents sooner) if the applicant

provided additional details or revised the scope of their request. When undertaking informal consultation, the FOI Section specifies a timeframe in which the applicant is requested to respond.

Final scope

Where the scope of the request has been revised with the applicant, the FOI Section will notify the applicant of the final agreed scope. A new FOI request must be lodged if the applicant decides to further revise the scope of the request once processing of the request has commenced.

Extension of time

The FOI Section will seek an extension of time from the applicant of up to 30 days under section 15AA in line with the Extension of Time Guidelines (at ADD2021/6294737). The applicant must provide written consent for the extension of time to take effect and the FOI Section must notify the OAIC of the agreement.

Outcome(s): If a practical refusal notice has been issued, one of the following is the result:

- The request has been withdrawn: The FOI Section updates the status of the request to 'withdrawn' and **the file is closed**.
- The applicant has not engaged with the Department: the request is deemed to be withdrawn. The FOI Section updates the status of the request to 'withdrawn' and **the file is closed**.
- The applicant has engaged but the practical refusal reason still exists: the Department has refused the request. The refusal decision has been sent to the applicant. The status is updated to 'refused for *practical refusal reason*' and **the file is closed**.
- The applicant has clarified or revised their request and the practical refusal reason no longer exists. The FOI Section proceeds to step 2.5.

Other outcomes from this step can include:

- An extension of time has been granted: the FOI Section proceeds to step 2.5.

2.6 Business area conducts searches for document(s) in scope of the request (including from contracted service providers if applicable)

The business area is responsible for conducting reasonable searches to identify documents in scope of the request. Guidance for business areas is available in *FOI User Guide – Search and retrieval* (ADD2021/2312331).

Business areas must maintain a record of all information related to searches of electronic and physical storage systems, including discrete computer systems and the time spent to search for, retrieve or produce documents and provide the documents and advice on time spent to the FOI Section within seven (7) days. The FOI Section uses the advice on time spent on search, retrieval or production of documents to calculate charges. Guidance on search and retrieval of documents is available from the OAIC in its *Guidance and advice: Processing FOI requests: taking all reasonable steps to find documents*.

The business area must ensure they take all reasonable steps to find documents. The FOI Guidelines instruct agencies to take a flexible and common sense approach to searching for documents noting that a reasonable search will depend on the circumstances of each request and will be influenced by the normal business practices in the agency's operating environment.

The business area should have regard to:

- the subject matter of the documents;
- the current and past file management systems and the practice of destruction or removal of documents;

- the record management systems in place;
- the individuals within the Department who may be able to assist with the location of documents; and
- the age of the documents.

TRIM is the Department's default Electronic Document and Records Management System (EDRMS), to be used by all Home Affairs and ABF staff for managing records. There are also other electronic systems and locations, such as PDMS, business systems, case management systems, legacy systems, network drives, email accounts, electronic documents saved on computers and portable devices, storage devices such as USBs. In addition, depending on the scope of the request, business areas should also consider searching hardcopy filing systems such as office files, filing cabinets and safes, desks, bookshelves and cupboards.

Good management of records facilitates efficient responses to FOI requests as information relevant to a request will be easy to identify and retrieve.

- *The Guide to good records management booklet (TRIM ADD2016/1095091)* outlines records management principles and guidelines in the Department.

Where a business area is unable to locate any documents, information about the steps taken to search for the documents must be provided to the FOI Section. The *FOI User Guide – Search and retrieval (ADD2021/2312331)* includes a template for recording the searches conducted.

Business area requests to contracted service providers

Some FOI requests seek documents that may be held by contracted service providers. Contracted service providers are required to provide documents in their possession to the Department under section 6C of the FOI Act. The *Office of the Australian Information Commissioner's FOI Guidance and advice* regarding documents held by government contractors states that:

Section 6C of the FOI Act requires an agency subject to the FOI Act to take contractual measures to ensure that the agency receives a document from a 'contracted service provider' if:

- the agency receives an FOI request for access to the document;
- the document relates to the performance of a 'Commonwealth contract' (but not the entry into the contract); and
- the document is created by, or is in the possession of, the contracted service provider or subcontractor.

Where the Department determines the scope of an FOI request requires a contractor to provide documents (either in the possession of a contractor or any subcontractor), the business area who manages the contract requests the documents from the contractor as soon as the requirement is identified to facilitate timely provision of the documents in accordance with section 6C.

Where there are likely to be delays in the provision of documents from the contractor, the business area advises the FOI Section, who can seek an extension of time. Requests to contracted service providers should specify a timeframe for return of documents, usually 7 days, and records of these requests are kept.

The Department can refuse a request where it has not received a document from a contractor in line with the measures in section 6C, and where the Department has taken all reasonable steps to receive the document. The business area keeps records of all contact with the contractor in relation to the request as part of managing the request (see subsection 24A(2) of the FOI Act). *FOI User Guide – Search and retrieval (ADD2021/2312331)* has additional guidance.

Outcome:

- If the business area is unable to locate documents the steps taken to conduct reasonable searches to find documents in scope of the request have been provided to the FOI Section.

- If contracted service providers hold relevant documents in their possession, these have been provided to the business area.

2.7 Do discrete documents exist and/or can a document be produced?

In some cases a business area will not have an existing document that meets the scope of the FOI request, but is able to produce one. Section 17 of the FOI Act requires an agency to produce a written document of information that is stored electronically and not in a discrete written form if it does not appear that the applicant wishes to be provided with a computer tape or disk, and the agency could produce a written form. The business area determines if discrete documents exist and/or can be produced by the ordinary use of a computer system, or the making of a transcript from a sound recording held in the agency (subsection 17(1) of the FOI Act). Most commonly, this is the production of a statistical report.

Under the FOI Act the Department is not required to create a document, including a statistical report, if one does not already exist in a discrete form or could not be produced by the ordinary use of a computer system (e.g. running a report). See the Guidance Note (at ADD2021/6262923) for further information about when and how to produce a document under section 17 of the FOI Act.

Where a business area produces a statistical report or document containing statistics under section 17 of the FOI Act, the business area must have the data cleared for release in accordance with other clearance protocols in the Department (such as the [Data Release Protocols](#)) prior to providing the document to the FOI Section.

Where no documents exist

Where a business area has conducted a search for documents, and has not found any documents, the business area advises the FOI Section of the searches they undertook.

Guidance for business areas is available in [FOI User Guide – Search and retrieval](#) (ADD2021/2312331), including a template to assist with documenting searches.

Outcome:

- If documents exist or could be produced under section 17, the business area proceeds to step 2.7.
- If documents do not exist and are not producible under section 17, the FOI Section proceeds to Stage 4 *Decision-making*.

2.8 Collate document(s) in scope (including document(s) created under section 17 (if applicable) and provide to the FOI Section

The business area collates all documents it identifies as in scope of the request and provides un-redacted copies of the documents to the FOI Section within seven (7) calendar days of the FOI Section's request for documents. The business area must also provide advice on the time taken to search for, retrieve or produce the document(s) under section 17 (to the nearest 10 minutes). The onus is on the business area to be able to quantify and justify (especially if required for internal or OAIC reviews) the time spent on the search and retrieval of documents.

The business area advises the FOI Section of any potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act, such as security classifications, particular caveats (e.g. Cabinet documents), or special handling requirements. The business area also advises of the need for consultation with third parties associated with these potential harms. The FOI Section undertakes consultation unless the business area advises specifically that they will undertake consultation. The FOI Section assists the business area with consultation letter templates in this instance.

The business area must advise the FOI Section if the documents in scope include:

- information that originated with, or was received from, a government or authority of an Australian state or territory;
- business related information (information about a person's business or professional affairs or an organisation/undertaking's business, commercial or financial affairs);
- personal information; or
- documents or information from foreign governments or international organisations.

Documents which include the above information are subject to mandatory consultation provisions under sections 26A, 27 and 27A. These consultations automatically extend the statutory due date by an additional 30 days, per subsections 15(6)-(8). More information on this process is at step 3.1.

The business area must provide the documents in an orderly manner. This could include:

- a list of TRIM reference numbers; or
- creating a TRIM container to hold a copy of all documents in scope of the request (preferred method for large numbers of documents).

The business area describes the harm, if any, that could be caused if the document or parts thereof were to be released. The business area does not need to identify the exemption provision under the FOI Act.

The FOI Act sets out irrelevant factors that cannot be taken into consideration when deciding whether to release information, which include, embarrassment or loss of confidence, misinterpretation or misunderstanding, the seniority of the author of the document, or confusion or unnecessary debate. Where the business area identifies these types of sensitivities in the documents, the business area and Divisional FOI Coordinator must brief their reporting line in order to consider issues management activities.

Outcome: The FOI Section has all documents identified as in scope, and information from the business area regarding time spent, any consultation required and harms identified if the documents were to be released.

2.9 FOI, in consultation with the business area, assesses document(s) provided against the scope of the request

The FOI Section assesses the document(s) provided against the scope of the request in consultation with the business area. Where the business area identifies documents that the FOI Section determines are outside the scope of the request, the FOI Section informs the decision-maker.

Outcome: The FOI Section has determined the documents in scope of the request which will be assessed in Stage 3 *Assessment and consultation*.

Escalation process – Business area

The business area must notify the FOI Section if it appears at any time that it will not be able to meet the timeframe set for search and retrieval and explain why. The FOI Section will determine whether to seek an extension of time from the applicant or the OAIC, and will set a new timeframe for the business area to finalise its search and retrieval of documents.

The following escalation processes are to be used to resolve delays where the delay is with the relevant business area within the Department:

Escalation point 1: Where the allocated timeframes for processing an FOI request are not met by the relevant business area, the FOI Section will follow up within three (3) business days.

At this point the business area advises the FOI Section why it has not met the timeframe. The FOI Section will determine whether to seek an extension of time from the applicant or the OAIC, if it has not already done so. The FOI Section will set a new timeframe for the business area to finalise its search and retrieval of documents.

Escalation point 2: If the business area does not meet the revised timeframe and has not, prior to the deadline, advised when it will be completed, the FOI Section will escalate via email to the SES Band 2/Group Manager officer of the business area, copied to the Divisional FOI Coordinator, AS FOI & Records Management and any staff already identified in the business area. This escalation will occur within three (3) business days of the revised timeframe.

3. *Assessment and consultation*

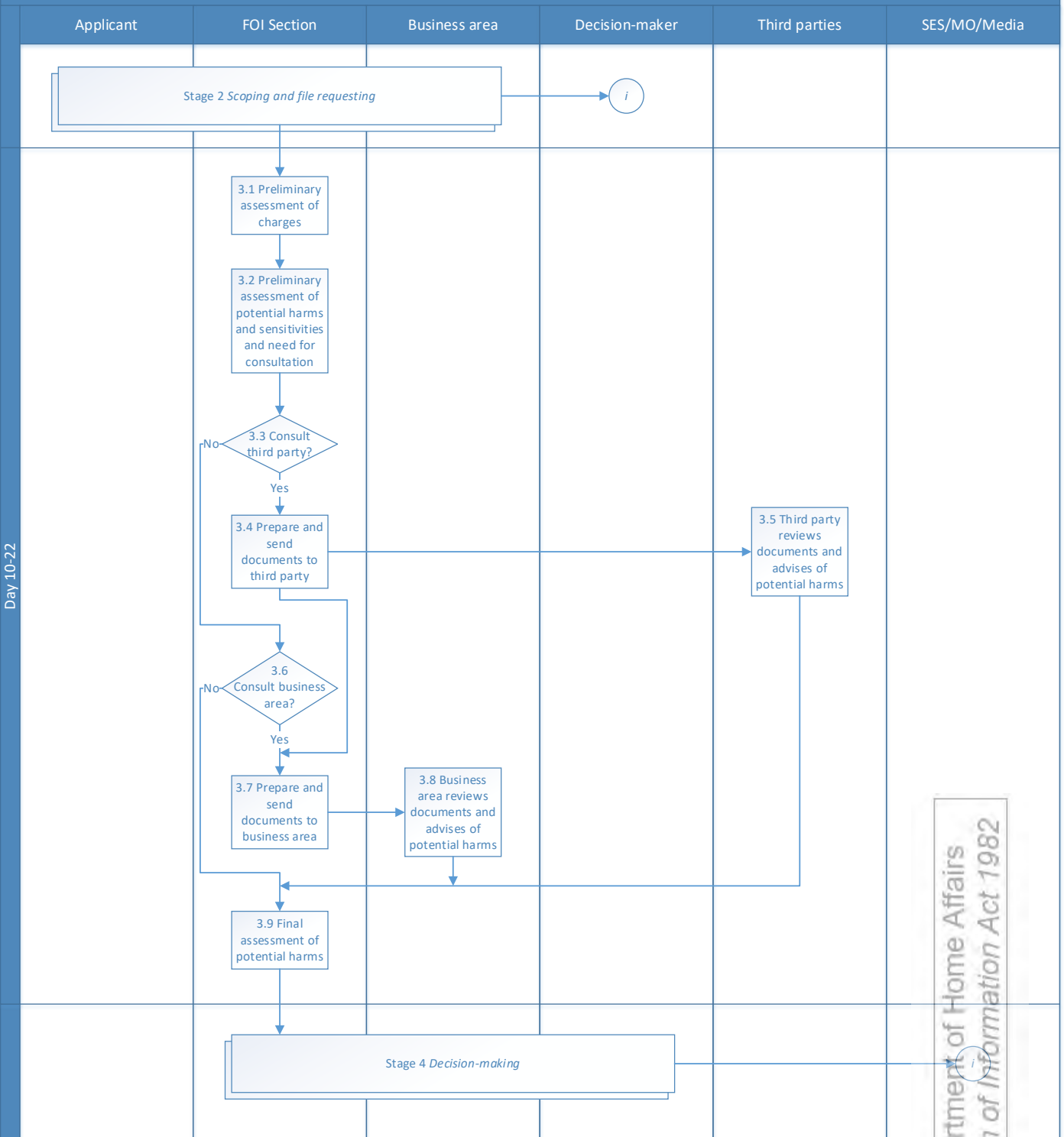
In Stage 3 *Assessment and consultation*, the FOI Section assesses the documents in scope of the request. The FOI Section also estimates and notifies the applicant of any charges and considers any request for reduction or waiver of charges. The applicant is required to pay a deposit if the charge amount is over \$25. The FOI Section undertakes any necessary consultation with other Commonwealth agencies and/or third parties.

Action in this stage is predominantly with the FOI Section, with input sought from other agencies and third parties.

The outcome of this process is the applicant being notified of preliminary charges (if any), payment of any required deposit and assessment of potential harms and sensitivities to inform decision-making.

An A3 PDF version of this chart is available at [ADD2021/2414192](#).

Stage 3 Assessment and consultation



Day 10-22

Released by Department of Home Affairs under the Freedom of Information Act 1982

3.1 Preliminary assessment of charges

The FOI Section issues a preliminary Notice of Charge under section 29 of the FOI Act and the *Information (Charges) Regulations 2019* (Charges Regulations). There is no charge on requests where:

- decisions are not made within the statutory time limit;
- the decision is to exempt documents in full; or
- no documents exist.

However, business areas and the FOI section must still record the time taken.

The Charges Regulations set out the charges that the FOI Section will apply in respect to access to a document, which are:

- \$15 per hour for search and retrieval of a document; and
- \$20 per hour, after the the first five hours of decision making.

The FOI Section estimates the charges based on:

- The time the business area advised it took to perform search and retrieval of the document(s) or the time taken to create a document(s) under section 17 (see step 2.5).
- An estimate of the number of decision making hours based on the amount of redaction required and the number of pages falling within the scope of the request or based on a 10 per cent sample (where a large number of documents are identified). Decision making encompasses time spent examining and assessing relevant pages, redacting pages that are partially disclosed, consulting with third parties and preparing the decision letter, schedule of documents and documents for release. Charges are not imposed for the first five hours of decision making.

The FOI Section calculates the estimated charges and requests an invoice from Finance Division to be issued to the applicant with the preliminary Notice of Charge.

Where the amount of the charge is between \$25 and \$100, the applicant is required to pay a deposit of \$20, or 25 per cent of the estimated charge if greater than \$100.

Once the applicant has paid the deposit or the total charge, FOI Section confirms with Finance Division that the payment has been received by the Department before issuing the decision and documents. Finance Division manages charges collected according to APS and departmental requirements.

The statutory processing time is stopped by the FOI Section until at least the deposit is received (applicants may choose to pay the full estimated charge amount at this stage). Where the applicant does not respond to the Notice of Charge within 30 days (subsection 29(1)(g), the request is deemed withdrawn. The FOI Section updates the status of the request to 'withdrawn' and proceeds to finalise the decision. .

The applicant may contend the Notice of Charge has been wrongly assessed or request the charge be reduced or not imposed (subsection 29(1)(f)(ii)). The FOI Section considers whether payment of the charge would cause the applicant financial hardship or if disclosure of the requested documents would be in the public interest, or in the interest of a substantial section of the public. The applicant may also respond to the Notice of Charge by revising the terms of their request so that it requires less decision-making hours. The FOI Section may consult with a business area when assessing the request to waive or reduce the charges, however it is not required to do so.

The FOI Section decides that the charges be reduced, remitted or remain (subsection 29(4), and communicates the outcome via a letter to the applicant (subsection 29(8)). Where the applicant does not agree with the outcome, they may seek an internal review (section 54) or review by the OAIC (section 54L) of the FOI section's assessment.

Guidance on the process for imposing charges and assessing requests from applicants to reduce or waive preliminary charges is available in *Imposing Charges under the Freedom of Information Act 1982* (ADD2021/4888919).

Outcomes:

- The required deposit has been paid: the FOI Section proceeds to step 3.2.
- Deposit is required and *has not* been paid in time: the request is deemed withdrawn. The FOI Section updates the status of the request to 'withdrawn'.
- Charges are adjusted following assessment of waiver request and any revised deposit amount has been paid: the FOI Section proceeds to step 3.2.
- Charges not imposed following assessment of waiver request: the FOI Section proceeds to step 3.2.

3.2 Preliminary assessment of potential harms and sensitivities and need for consultation

The FOI Section assesses the document(s) to identify possible exemptions and/or irrelevant material in consultation with the business area/with their guidance on the nature of the documents. This is intended to identify potential issues and inform future actions.

The business area has notified the FOI Section of the need for third party consultation at step 2.7 in Stage 2 *Scoping and file requesting*. The FOI Section manages consultation with third parties unless the business area requests to manage the consultation. (See step 2.7).

The FOI Section identifies other Commonwealth agencies or third parties who need to be consulted and upon which documents or parts thereof that they need to be consulted. Consultation will occur with other agencies and third parties where they may provide advice on potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act.

Formal consultation with third parties is undertaken on:

- documents affecting Commonwealth-State relations (section 26A);
- business documents (section 27);
- documents affecting another person's privacy (section 27A); and
- documents requiring consultation with foreign governments or international organisations (subsections 15(7)-(8)).

Where the FOI Section is required to undertake formal consultation with third parties:

- the timeframe for making a decision is extended by 30 days;
- the Department must give the third party a reasonable opportunity to make submissions in support of the exemption contention;
- any submissions by the third party must be considered;
- if a third party is consulted, they should be advised that if a response is not received within the specified timeframe the Department may proceed to make an access grant decision;
- the third party must be given notice of the decision and their review rights;
- the applicant will only be given access to a document when the third party's opportunities for review have run out; and

- the applicant is advised if the Department is consulting a third party and the due date has been extended, and in some circumstances the FOI Section will seek the applicant's consent to have their identity disclosed.

The FOI Section will also undertake consultation with other Commonwealth agencies. In addition to consulting with other agencies or ministers where the request may be transferred (see step 1.7), the FOI Section consults with other departments or agencies in circumstances where:

- the other department or agency may hold documents in regard to a Freedom of Information request made to the Department; or
- the other department or agency may provide advice on potential harms associated with the release of documents, in accordance with the allowable exemptions in the FOI Act.

Consultation with other Commonwealth agencies does not automatically attract additional processing time under the FOI Act. The FOI Section sets a timeframe of 7 days for a response to this form of consultation. Where consultations are complex or likely to be time consuming, the FOI Section requests an extension of time from the applicant or from the OAIC. Where a response has not been received within the specified timeframe. The FOI Section will send a reminder seeking input.

- The Department of the Prime Minister and Cabinet (PM&C) must be consulted on documents that may be subject to a Cabinet documents exemption provision. The FOI Section use the template provided by PM&C for consultation and the business area must provide a Cabinet reference number or details of the relevant Cabinet committee.

Outcome: The FOI Section has reviewed documents and conducted a preliminary assessment of possible exemptions and consultation requirements.

3.3 Consult third party?

The FOI Section will proceed to step 3.3 if third party consultation is required or to step 3.5 if third party consultation is not required.

Outcome: The FOI Section has identified formal and informal consultation as required

3.4 Prepare and send documents to third party

The FOI Section prepares and sends a consultation letter (outlining the relevant sections which may apply to the third party) and the documents for consultation, ensuring the third party will only have access to the documents, or parts of the documents, relevant to them.

The FOI Section undertakes consultations in accordance with the *Privacy Act 1988* (Cth) and does not provide the applicant's personal information to the third party without the applicant's consent.

The FOI Section informs the third party that if a response is not received within the specified timeframe the Department may proceed to make an access grant decision (*FOI Guidelines* paragraph 3.81).

Outcome: Third parties have been notified of the request and documents for consideration.

3.5 Third party reviews documents and advises of potential harms

The third party reviews the documents provided by the FOI Section.

In third party consultations undertaken under sections 26A, 27 and 27A the third party may provide a submission in support of potential harms which may result from the release of documents and may support an exemption claim. If the third party does not make a submission in support of the exemption contention, the Department is not required to provide written notice of the decision to the third party concerned, nor is the Department required to wait until the third party's review rights have expired before providing access to the applicant.

In consultations undertaken with another Commonwealth agency, the agency may advise the FOI Section of potential harms or sensitivities within the documents. This type of consultation may identify that another agency has already disclosed the document in response to an FOI request or has made it publicly available.

Finalisation of decisions where no response is received – Third party

Where the timeframes provided by the FOI Section for consultation with a third party are due, the FOI Section provides a reminder before the due date. The reminder will advise that if a response is not received from the third party within the specified timeframe the Department may proceed to make an access grant decision, in accordance with paragraph 3.81 of the OAIC FOI Guidelines.

Where a response from a third party is not received, and there has been no response to a reminder, the decision-maker can proceed to finalise the request.

Outcome: Either:

- The FOI Section has the consultation response from the third party, providing any submissions in regard to exemptions for consideration; or
- The third party has not responded to consultation and the FOI Section continues to process the request.

FOI or Business area requires legal advice on possible exemptions

In some instances, a business area may require specialist advice on possible exemptions in order to respond to an FOI consultation request. Before seeking legal advice, the business area should discuss their question with the FOI Section, who may be able to quickly resolve their concerns or identify relevant case law.

If the business area or FOI wishes to seek legal advice, it must be sought from the Information Law Section which is best placed to provide advice on the application of the FOI Act and *Privacy Act 1988*. Information Law Section will coordinate any required referrals to other sections of Legal Division or the Australian Government Solicitors, as required.

Business areas must ensure that FOI Section is aware of and copied into any requests for legal advice.

Outcome: Legal advice is received.

3.6 Consult business area?

The FOI Section considers whether consultation with the business area or other business areas is required. In most cases consultation will be undertaken. Factors for deciding on internal consultation will depend on the nature of the document and the potential harms and sensitivities identified by the business area who provided the documents. For example: where international relations are identified as a potential harm, International Division is likely to be consulted to further clarify the harms that may be caused by release of the information.

The FOI Section may decide not to undertake consultation with the business area where the business area has already identified and provided reasons (within Stage 2 *Scoping and file requesting*) that the document can be released in full, or where a document has been produced for purpose under section 17 of the FOI Act and was cleared for release by the business area and in accordance with other clearance protocols in the Department prior to providing the document to the FOI Section.

Where a number of business areas need to be consulted, the FOI Section considers requesting an extension of time from the applicant or from the OAIC.

Where there are delays in obtaining responses from business areas, the escalations process outlined at step 2.8 is followed.

Outcome: The FOI Section identifies relevant business area(s) for consultation.

3.7 Prepare and send documents to business area

The FOI Section undertakes consultation with the business area that provided the document(s), and any other business areas that may have the subject matter expertise concerning potential harms associated with the release of document(s). The FOI Section provides a version of the documents marked-up with proposed redactions to the business area for assessment with a summary of the preliminary exemptions identified.

Outcome: Business area(s) have been sent the document(s) proposed to be released, marked-up as necessary, for consideration.

3.8 Business area reviews documents and advises of potential harms

The consulted business area(s) reviews the document(s) provided by the FOI Section and advises of any potential harms not already identified. The business area must provide detail of harm arising from release and justification for any information or part of the document(s) they recommend to exempt. The business area does not need to identify the exemption provision under the FOI Act.

The FOI Act sets out irrelevant factors that cannot be taken into consideration with deciding whether to release information, which include, embarrassment or loss of confidence, misinterpretation or misunderstanding, the seniority of the author of the document, or confusion or unnecessary debate. Where the business area identifies these types of sensitivities in the document(s), the business area and Divisional FOI Coordinator may brief their reporting line in order to consider issues management activities.

Outcome: The FOI Section is advised of any potential harms identified by the business area.

3.9 Extension of time

The FOI Section seeks an extension of time under section 15AA or 15AB if the request cannot be completed within the statutory timeframe in line with the *Extension of Time Guidelines* (at ADD2021/6294737).

A section 15AA extension of time from the applicant must be sought in the first instance. The applicant must provide written consent for the extension of time to take effect and the FOI Section must notify the OAIC of the agreement.

A section 15AB extension of time may additionally be requested from the OAIC if the request is complex and voluminous.

Outcome: The FOI Section has considered if an extension of time is required under sections 15AA and/or 15AB of the FOI Act.

3.10 Final assessment of potential harms

The FOI Section undertakes a final assessment of potential harms having regard to the FOI Act, the FOI Guidelines issued by the Information Commissioner, advice from the business area, submissions from third parties, and any other relevant information.

Outcome: The FOI Section has collated documents, evidence and submissions within the TRIM *OBJ*, in order to prepare the draft decision for consideration by the decision-maker in Stage 4 *Decision-making*.

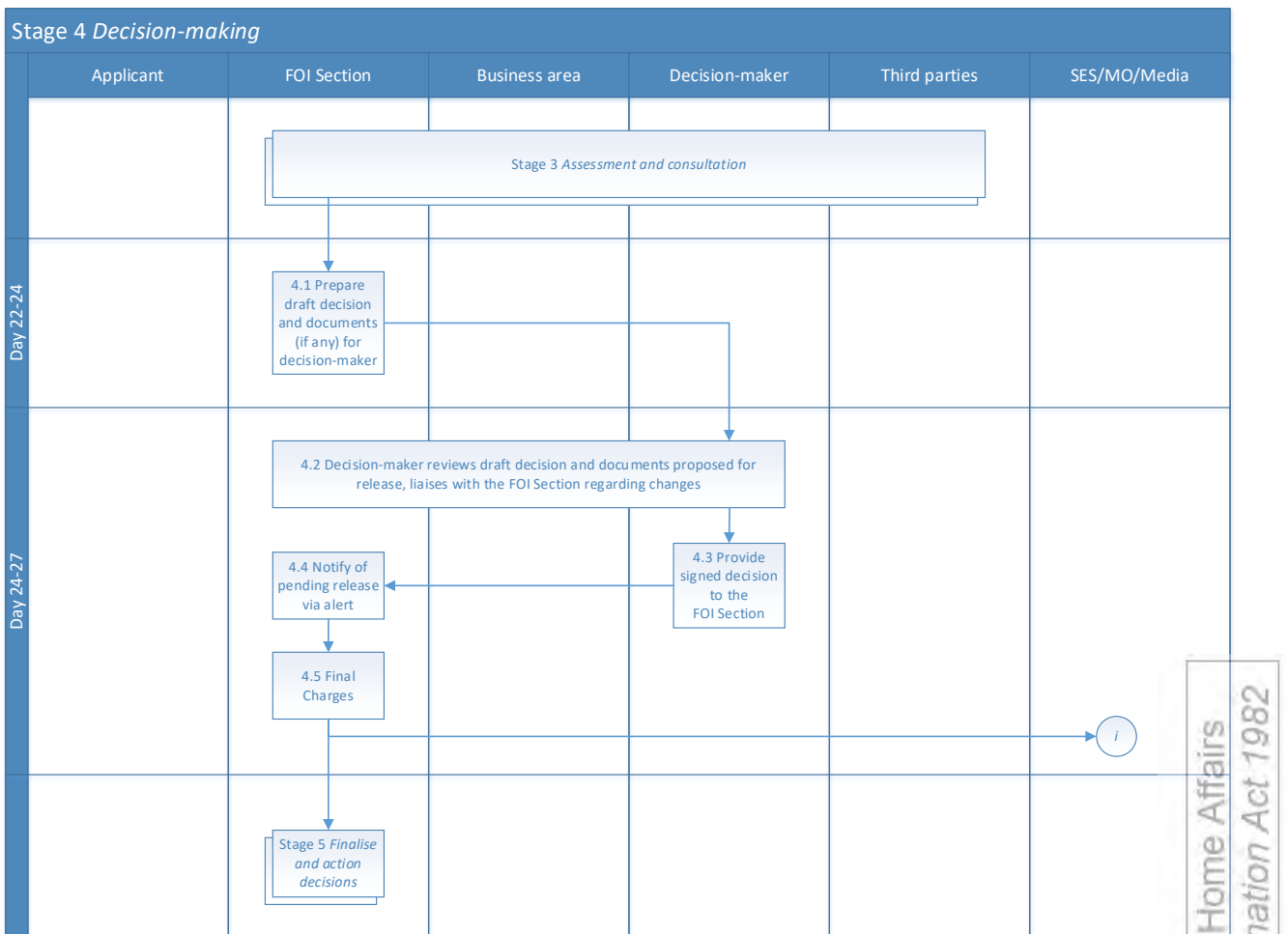
4. Decision-making

In Stage 4 *Decision-making*, the FOI Section prepares a draft decision letter and package of documents to be released (if any), with redactions (if any) and provides it to the decision-maker. Consultation between the decision-maker, the FOI Section and one or more business areas may occur until the decision-maker is satisfied with the decision. The applicant is notified of the final charges (if any).

Action in this stage is shared between the FOI Section and the decision-maker.

The outcome of this stage is a signed decision on the access request. Key stakeholders are alerted to pending decisions on sensitive requests.

An A3 PDF version of this chart is available at [ADD2021/2414247](https://www.foi.gov.uk/ADD2021/2414247).



4.1 Prepare draft decision and documents (if any) for decision-maker

The FOI Section prepares the decision package, including a draft access decision (section 26 statement of reasons), schedule of documents (where appropriate) and a marked-up copy of the documents proposed for release (if any) for the decision-maker’s consideration.

The FOI Section sends the package to the decision-maker for review and approval, indicating a timeframe for the return of the signed decision.

Outcome: The decision-maker has received the package of documents, including draft decision for review from the FOI Section.

4.2 Decision-maker reviews draft decision and documents proposed for release, liaises with the FOI Section regarding changes

The decision-maker reviews the draft decision letter and the documents proposed for release (if any).

Any issues with the decision letter and documents proposed for release are settled between the decision-maker, business area and the FOI Section.

Outcome: The decision-maker has made the decision.

Escalation process – Decision-maker

The following escalation process is to be used to resolve delays where the delay is with the decision-maker:

Escalation point: Where the allocated timeframe for finalising the decision is not met by the decision-maker, the FOI Section will follow up within 3 business days.

Where the escalation process does not lead to a response or progress of the request, the FOI Section will escalate the decision on access to the SES Band 2/Group Manager level.

4.3 Provide signed decision to the FOI Section

Once the decision-maker is satisfied with the decision, they sign the decision letter and provide it to the FOI Section for finalisation.

Outcome: The FOI Section has a signed decision from the decision-maker.

4.4 Notify of pending release via alert

The FOI Section receives the signed decision from the decision-maker and where the request is sensitive, the FOI Section sends an email to the *alert distribution list* to advise of the intended release, to enable finalisation of talking points and any other strategy to address potential misunderstandings.

Outcome: Officers on the alert distribution list have been notified of the intended decision.

- The FOI Section proceeds to Stage 5 *Finalise and action decisions*.

Extension of time

The FOI Section seeks an extension of time under section 15AA, 15AB or 15AC if the request cannot be completed with the statutory timeframe in line with the *Extension of Time Guidelines* (at ADD2021/6294737).

Outcome: The FOI Section has sought an extension of time under sections 15AA and/or 15AB of the FOI Act and has advised the OAIC and the applicant of the agreed extension of time as required..

4.5 Final charges

Where the applicant has previously been issued with a Preliminary Notice of Charge, the FOI Section calculates the final charge amount and provides the decision outlining the final charges to the applicant to arrange payment of the amount less the deposit paid. If the final charge is significantly more than estimated in the preliminary Notice of Charge, the request should be escalated to the FOI Director for consideration.

The estimated charges can be adjusted if it is determined that there are fewer documents in scope and the time spent on decision making is revised. Applicants must do one of the following within a specified timeframe:

- pay the balance of the any charges owing;
- seek internal review or OAIC review of the FOI request; or
- withdraw the FOI request.

The decision record along with the final charges notice will be issued to the applicant, however documents are not released by the FOI Section until any outstanding charges are settled.

The FOI request may be taken to be withdrawn if the applicant does not pay the remaining balance within 60 days. The FOI Section updates the status of the request to withdrawn and proceeds to finalise the decision.

Guidance on the considerations and process for assessing and imposing charges is available in *Imposing Charges under the Freedom of Information Act 1982* (ADD2021/4888919).

Outcome:

- Charges are paid: the FOI Section proceeds to Stage 5 finalise and action decision.
- Charges are not paid: the request is deemed withdrawn. The FOI Section updates the status of the request to 'withdrawn'.
- Charges are adjusted following assessment of waiver request and new charges have been paid or no charge is due: the FOI Section proceeds to Stage 5 finalise and action decision.

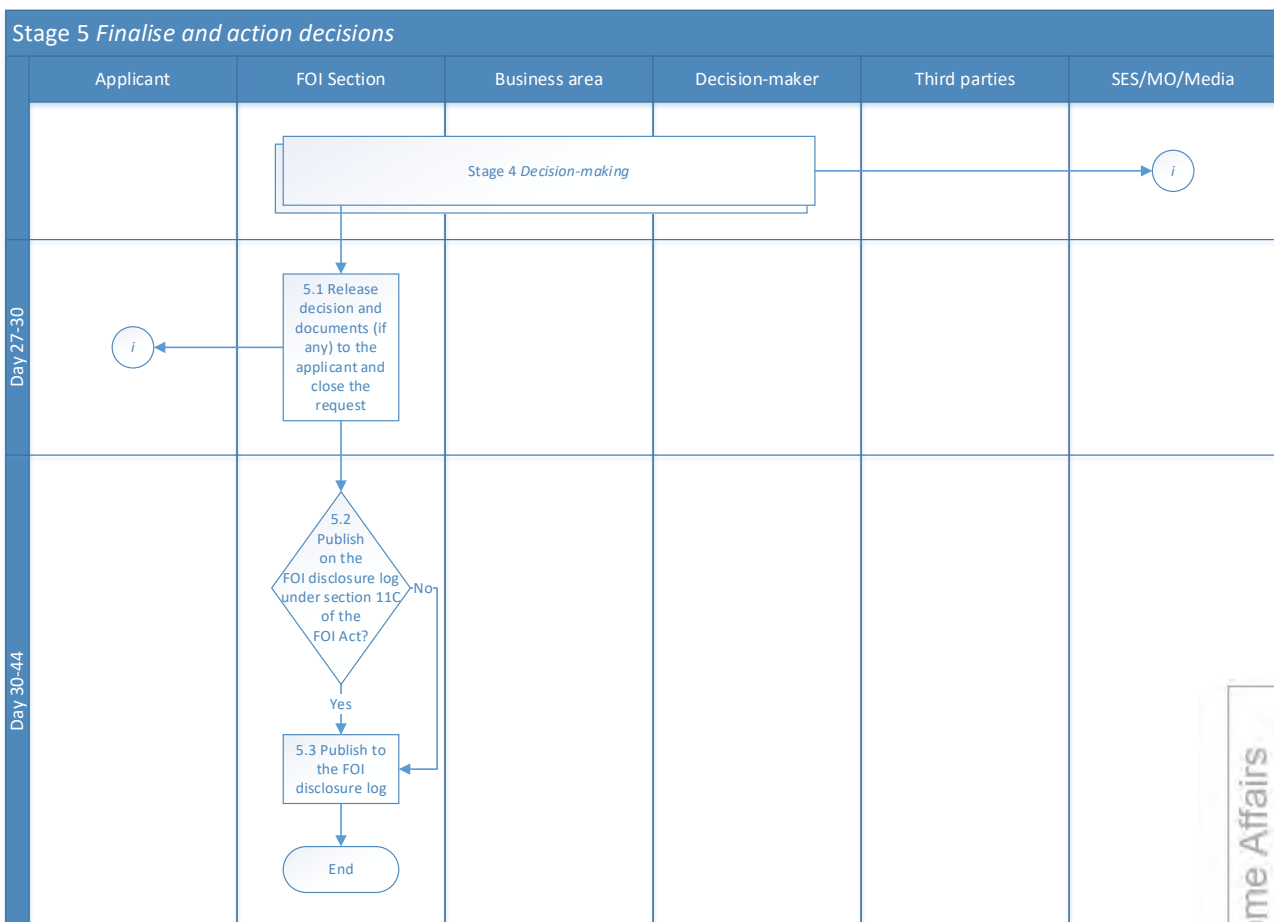
5. Finalise and action decisions

In Stage 5 *Finalise and action decisions*, the FOI Section sends the access decision and documents (if any) to the applicant once charges (if any) have been paid in full. Where documents are released and it would not be unreasonable to make these available to the public, the FOI Section arranges publication on the Department’s FOI disclosure log.

Action in this stage is predominantly with the FOI Section.

The outcome of this final stage is payment is made (if applicable), an access decision provided to the applicant, finalisation of the request and the publication of disclosed material where appropriate.

An A3 PDF version of this chart is available at [ADD2021/2414316](#).



5.1 Release decision and documents (if any) to the applicant and close the request

The FOI Section issues the decision, including the statement of reasons, final charge amount (if any), schedule of documents, and the documents (if total charges have been paid) to the applicant and closes the request in Resolve. Documents must not be released to the applicant until the balance of charges is received.

Where the decision-maker decides to give the applicant access to documents after a third party has objected, the third party must be given notice of the decision and their review rights (subsections 27(6) and 27A(5)), and the applicant is only given access to the document when the third party’s opportunities for review have run out (subsections 27(7) and 27A(6) of the FOI Act).

Outcome: The applicant has received the decision and any documents. **The file is closed.**

5.2 Publish on the FOI disclosure log under section 11C of the FOI Act?

The FOI Section determines whether the release is to be published on the Department's disclosure log.

Section 11C of the FOI Act states that agencies and ministers must publish information that has been released in response to each FOI access request, subject to certain exceptions.

Outcome: The FOI Section has determined if any documents which have been released are to be published.

5.3 Publish to the FOI disclosure log

The FOI Section arranges publication of released documents to the Department's FOI disclosure log, unless they are exempt from publication as outlined in subsection 11C(1). The SES Band 1 responsible for Freedom of Information signs off on the publication of documents to the FOI disclosure log, in accordance with the Department's policy on approving content for publication on an external facing departmental website.

Subsection 11C(6) states that the time limit for publication of the released information is within 10 working days after release to the applicant.

Outcome: Released document(s) are published on the homeaffairs.gov.au website.

Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	30 April 2021	FOI Section	Document approved by Information Champion (First Assistant Secretary, Data Division) as SES Band 2 with responsibility for FOI
1.1	25 May 2021	FOI Section	Minor edits – internal phone number and email removed
1.2	3 August 2021	FOI Section	Minor edits – updated the level of delegation for FOI decision-makers and the FOI instrument of authorisation
1.3	22 April 2022	FOI Section	Minor edits – updated extension of time options, s17 and assessment of charges information
1.4	25 August 2022	FOI Section	Minor amendment to include this sentence in 1.2 - Non-personal requests requiring consideration of a cabinet documents or consultation with another Australian government department or agency must be classified as Sensitive.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

Accountabilities and responsibilities

Role	Description
Freedom of Information Section	<ul style="list-style-type: none"> • Responsible for administering all aspects of the FOI Act on behalf of the Department including: <ul style="list-style-type: none"> • Providing policy advice on FOI-related policy, information release and exemptions. • Accountable for the processing of FOI requests within statutory time limits. • Responsible for case management of all FOI requests, including: <ul style="list-style-type: none"> ○ escalation of matters relating to request processing and decision-making; ○ assessing the validity of requests; ○ communicating with applicants to clarify scope and/or request extensions of time; ○ engaging with the Office of the Australian Information Commissioner (OAIC) including in regard to extensions of time; ○ consulting with third parties; ○ coordinating transfers of requests; ○ implementing charges for requests alongside Treasury and Banking Section; ○ managing internal and external reviews of primary decisions; ○ providing guidance on practical refusal reasons and substantial and unreasonable diversion of resources; ○ sending alerts for sensitive matters; ○ determining and notifying applicants of applicable charges; and ○ assessing requests for reduction or waiver of charges. • Accountable for publishing relevant accessed information on the Department's FOI disclosure log. • Responsible for ensuring the quality of decisions and continuous improvement of FOI decision-making.
Senior Executive Service Band 2 / Group Manager of business area	<ul style="list-style-type: none"> • Responsible for FOI requests assigned to their business area. • Responsible for appointing the appropriate Senior Executive Service (SES) decision-maker within their division/group.
Divisional FOI Coordinator (usually divisional Executive Officer) of business area	<ul style="list-style-type: none"> • Responsible for advising the FOI Section of the assignment of requests to a decision-maker for cases allocated to their business area.

Role	Description
	<ul style="list-style-type: none"> • Responsible for supporting compliance with all aspects of the FOI process within their business area. • Supports processing of FOI requests including ensuring a timely response to requests and maintaining engagement with the FOI Section. • Responsible for coordinating issues management, including briefings, relating to information being released through FOI.
Decision-maker (SES Band 3, SES Band 2 and SES Band 1 officers in the Department, including the ABF; and APS3-EL2 staff in the FOI Section)	<ul style="list-style-type: none"> • Accountable for statutory decisions on requests for access and/or amendment. • Responsible for providing subject matter expertise on decisions for assigned requests on scoping, release of documents and exemptions in compliance with the FOI Act. • Responsible for ensuring reasonable searches have been conducted. • Responsible for ensuring documents to be released are within the scope of the request.
Business areas	<ul style="list-style-type: none"> • Responsible for conducting searches and providing documents within the scope of an FOI request within the required timeframes to meet statutory requirements. • Responsible for recording and communicating to the FOI Section the time spent on searching for, retrieving or producing a document. • Responsible for identifying and advising the FOI Section of the relevant details to enable assessment of practical refusal due to substantial and unreasonable diversion of resources from other operations. • Responsible for identifying and advising FOI Section of required processing times and constraints, prior to the end of the statutory timeframe, to enable the FOI Section to determine if an extension of time is required.
Finance division	<ul style="list-style-type: none"> • Responsible for providing invoices to the FOI section. • Responsible for managing charges collected according to APS and departmental requirements. • Responsible for confirming payment if required.

Attachment A – Definitions

Term	Abbreviation (if applicable)	Definition
Alert distribution list		<p>Alerts on <i>sensitive</i> requests allow time to construct briefings and prepare talking points. Staff on the alert distribution list include:</p> <ul style="list-style-type: none"> • The Senior Executive reporting line for the relevant business area(s) and the relevant Minister(s); • Any other Senior Executives who have advised FOI they have a requirement to be informed; • Executive Coordination contacts; • Chiefs of Staff contacts; • Media Operations; • MO registration; and • FAS Data Division and AS FOI & Records Management.
Australian Information Commissioner	Information Commissioner	As defined by the <i>Australian Information Commissioner Act 2010</i> .
Business area		The Division (or work unit within a Division) which holds the information and/or subject matter expertise on documents or information within scope of the request.
Commonwealth record		All information created, sent and received in the course of carrying out the business of the Commonwealth.
Decision-maker		An officer of the Department acting within the scope of authority to make FOI decisions as defined in section 23(1) of the FOI Act.
Department of Home Affairs	Department	Department of Home Affairs, incorporating its operational arm, the Australian Border Force.
Diversion of resources / practical refusal		A request may be refused for a practical refusal reason as defined in section 24AA.
Document		<p>As defined in section 4, Interpretation of the FOI Act.</p> <p>A document does not include material maintained for reference material purposes that is otherwise publicly available or Cabinet notebooks.</p>

Term	Abbreviation (if applicable)	Definition
FOI disclosure log	Disclosure log	Publication of information accessed through FOI as defined in section 11C of the FOI Act.
<i>Freedom of Information Act 1982</i>	FOI Act	The FOI Act provides a legal framework to publish operational information, provide access to information, or amend personal information held by Government.
<i>Freedom of Information (Charges) Regulations 2019</i>		Legislative provision which provides discretion to impose or not impose a charge for access to a document.
Information Champion		The SES Band 2 officer with responsibility for the FOI function, and leadership of the Department's compliance with the FOI Act.
Non-personal FOI request		FOI requests that are not for the applicant's personal information. These requests may be for information about policy-making, administrative decision-making and government service delivery.
Object box container	OBJ	Object box containers are used to group files that hold similar information in TRIM.
Office of the Australian Information Commissioner	OAIC	The independent national regulator for privacy and Freedom of Information led by the Australian Information Commissioner.
Personal information		Information or an opinion about an identified individual, or an individual who is reasonably identifiable, as defined in the <i>Privacy Act 1988</i> .
Personnel records		Records in relation to agency personnel management for an employee of the Department of Home Affairs, including the Australian Border Force.
Practical refusal reasons		The FOI Act provides a power to refuse a request where a practical refusal reason exists (section 24). Practical refusal reasons are where processing the request would substantially and unreasonably divert the resources of the Department from its other operations, or where the applicant does not provide sufficient information about the document requested to enable the Department to identify it.
<i>Routine</i> non-personal FOI request		<i>Routine</i> non-personal FOI requests are all requests not considered <i>sensitive</i> , and include requests for general statistical information, documents about policy-making, administrative decision-making and government service delivery. FOI officers are decision-makers in consultation with relevant business areas for these types of requests.

Term	Abbreviation (if applicable)	Definition
Sensitive non-personal FOI request		<p><i>Sensitive non-personal requests</i> are requests that most align to the objects and purpose of the FOI Act, being non-personal requests which facilitate transparency and public discourse in government activities, inform debate on a matter of public importance and promote effective oversight of public expenditure.</p> <p>Sensitive non-personal FOI requests are managed by the FOI Section in cooperation with a decision-maker in the relevant business area.</p>
Third party		<p>A third party may be a state, a business, a government agency, an organisation or a person who may wish to make a submission regarding potential harm on the release on documents.</p> <p>Some consultation is required by the FOI Act. For example, the Department must consult a third party where documents subject to a request are:</p> <ul style="list-style-type: none"> • documents affecting Commonwealth-State relations (section 26A) • business documents (section 27) • documents affecting another person's privacy (section 27A). <p>Consultation with other third parties is not mandatory.</p>
Valid request		A request that meets the requirements of subsection 15(2) of the FOI Act.

Attachment B – Assurance and Control Matrix

Powers and Obligations

Please Note: Staff exercising any powers, delegations or authorisations outlined in this PI (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this power delegated?	If delegated, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Section heading/provision description		
<i>Freedom of Information Act 1982</i>	Section 3A(2)	Allow access to all documents as requested, even if some are exempt	Yes	(ADMIN 21/105) <u><i>Freedom of Information (Secretary of the Department of Home Affairs) Authorisation 2021</i></u>
	Section 11A(4)	Withhold all requested documents as exempt, or withhold some documents and allow access to others		
	Section 11C	Publication of information in accessed documents		
	Section 15	Refuse a request that does not meet the formal requirements for making a request		
	Section 22	Delete exempt or irrelevant material from documents and provide access to edited copies		
	Section 24	Refuse access under s 24A on the basis that the document sought does not exist, cannot be found or was not received from a contractor		
	Section 24AA	Refuse a request if a practical refusal reason exists, following a request consultation process		
	Section 26	Reasons and other particulars of decisions to be given		
	Section 29	Impose a charge for processing a request or for access to a document to which a request relates		
<i>Freedom of Information (Charges) Regulations 2019</i>	Section 8	Decision by agency or Minister that applicant liable to pay charge	Yes	(ADMIN 21/105) <u><i>Freedom of Information (Secretary of the Department of Home Affairs) Authorisation 2021</i></u>

Controls and Assurance

Related Policy	Freedom of Information – Policy Statement (SM-3357)
Procedures / Supporting Materials	Nil
Training/Certification or Accreditation	Nil
Other required job role requirements	Nil
Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	Freedom of Information Section foi@homeaffairs.gov.au
Escalation arrangements	Director, Freedom of Information Section foi@homeaffairs.gov.au
Recordkeeping (e.g. system based facilities to record decisions)	TRIM
Program or Framework (i.e. overarching Policy Framework or Business Program)	Freedom of Information
Job Vocational Framework Role	Information Management

Attachment C – Consultation

Internal Consultation

All FAS level staff and Divisional FOI Coordinators across the Department and ABF, Finance Division and Legal Group were consulted on this PI.



OFFICIAL

FOI User Guide – Search and retrieval

This FOI User Guide is for staff in the Department of Home Affairs (the Department), including the Australian Border Force (the ABF), who are in a business area that holds or potentially holds documents in scope of a request made under the *Freedom of Information Act 1982* (the FOI Act), and who have been contacted by the FOI Section to search for and retrieve documents in scope of the FOI request.

This guidance is derived from the *Processing non-personal Freedom of Information requests – Procedural Instruction (TI-6738)* [1 hr 30 min read].

Stage 2: Scoping and file requesting

Following the lodgement and registration of an FOI request in Stage 1, the FOI Section will seek documents in scope of the request from the business area or business areas that hold or potentially hold documents in scope of the request.

You, in conjunction with your business area, are responsible for:

- meeting timeframes set by the FOI contact officer (noting the Department must meet strict statutory timeframes);
- considering the scope of the FOI request;
- advising the FOI contact officer if you think the scope may justify requesting an extension of time to process the request; and
- conducting searches for the documents in the scope of the request.

After considering the scope of the request and/or conducting searches, you are also responsible for **either**:

- providing identified documents to the FOI Section;
- providing practical refusal reasons to the FOI Section where the size of the search results is too large or the scope of the request is unclear (see page 4 of this document); or
- advising the FOI Section if no documents can be located (see page 4 of this document).

Consider the scope of the FOI request

Do you understand the scope of the request?

It may assist you to break down the request into specific criteria: type of document (e.g. correspondence; briefings); type of information (e.g. statistics); subject matter (e.g. citizenship, detention); date range; etc.

When considering scope, take a common sense interpretation, not a narrow or pedantic interpretation. Although a request under the FOI Act must be for 'documents', rather than for 'information', a request may reference information that a document contains. A request does not need to quote a file number. The

Process for non-personal FOI requests

- Stage 1: Lodgement and registration
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request can be considered to extend to any document that might reasonably be taken to be included within the description the applicant has used.

If the scope is unclear, consider the practical refusal reasons listed at page 4 of this document. If practical refusal reasons exist, you must contact the FOI Section (foi@homeaffairs.gov.au) as soon as possible.

Does the request sit with another business area (as well as, or instead of, your own)?

Sometimes documents that are relevant to the request may be held by a different business area, or may be held in more than one business area. Where documents are held by multiple areas, the FOI Section will coordinate to ensure that relevant areas are notified.

If you think other business areas could hold documents within the scope of the request, you must advise the FOI Section (foi@homeaffairs.gov.au) as soon as possible so we can forward the request for documents to them.

Should the request be transferred to another agency or minister?

In certain circumstances, the Department can seek to transfer the request, or part of the request, to another agency or minister if:

- the document requested is not in the possession of the Department but is known to be in the possession of another agency or a minister; or
- the subject matter of the document is more closely connected to the functions of another agency or a minister than to the functions of the Department.

If you think the request should be transferred, you must advise the FOI Section (foi@homeaffairs.gov.au) as soon as possible so we can seek to transfer the request to the other agency or minister.

Conduct reasonable searches for documents in scope of the request

What is a document?

The FOI Act provides access to documents of an agency to members of the public. This includes documents that already exist and those that could be produced by the ordinary use of a computer system (e.g. by running an existing statistics report) or the making of a transcript from a sound recording held in the agency.

Under the FOI Act, a document captures information in any form. For example, a document includes emails, diary and calendar entries, phone messages (including in applications such as WhatsApp or Signal), CCTV footage, policy guides or manuals, letters, handwritten notes, file notes, sticky notes, files, photographs, telephone call or interview recordings and voice messages.

What is a reasonable search for documents?

You are required by the FOI Guidelines to undertake a 'reasonable search' for documents using a flexible and common sense interpretation of the terms of the request. What constitutes a reasonable search will depend on the circumstances of each request and will be influenced by the normal business practices in your business area. When conducting your search keep in mind:

- the request only covers documents that existed at the date of the request (i.e. you do not need to search for documents created after that date) unless the request is for a document that can be produced through the ordinary use of a computer system (e.g. by running an existing statistics report);
- multiple document storage systems may need to be searched to locate all relevant documents (e.g. electronic files, hard copy files, archived files);
- draft documents must be provided, unless excluded by the applicant; and

- security classifications, dissemination limiting markers and information management markers do not, in and of themselves, exclude documents from the FOI Act.

You should search all locations where documents may be located. This may include:

- Records management systems (e.g. TRIM)
- Case management systems
- Parliamentary Document Management System (PDMS)
- Business systems
- Legacy systems
- Email accounts
- Network drives
- Computers and other electronic devices
- Smartphones and apps (e.g. WhatsApp, Signal)
- Portable media devices
- Storage devices (e.g. USBs)
- Hardcopy filing systems (e.g. office files, filing cabinets, safes, desks, bookshelves, cupboards)
- Backup systems
- Consider whether the document could be held by a contracted service provider

Are documents held by contracted service providers?

If documents relevant to the request could be held by a contracted service provider, you must request the contracted service provider provide the documents within 7 days. You must keep details of correspondence between your business area and the contracted service provider.

Consistent with section 6C of the FOI Act, contracted service providers are required to provide to the Department any documents that are:

- in scope of an FOI request; and
- created by, or in the possession of, the contracted service provider (or a subcontractor).

Where you have contacted a contracted service provider, you must advise the FOI Section (foi@homeaffairs.gov.au), particularly where there is likely to be a delay in returning the documents. The FOI Section may seek an extension of time to allow for the processing of these documents.

Return documents within scope to FOI Section

How are documents provided?

Documents can be provided by a TRIM link to an individual document or a dedicated TRIM container, or by a list of TRIM references. If you know a document is publically available, please advise the FOI Section and include a link to where it is published as part of your response.

Outline any sensitivities within the documents, such as potential harms that could be caused if the documents were released, and advise if the documents are highly classified and/or have additional handling requirements. You do not need to identify applicable exemption provisions in the FOI Act.

The FOI Act sets out irrelevant factors that cannot be taken into consideration when deciding whether to release information. You cannot take into account the seniority of the author of the document, or whether releasing the document could result in embarrassment to the Government, cause a loss of confidence in the Government, result in any person misinterpreting or misunderstanding the document, or result in confusion or unnecessary debate. If you are concerned that one or more of the irrelevant factors are a sensitivity in the document(s) in scope of the request, you will need to brief your reporting line and liaise with Media Operations to prepare talking points to address the issue.

Will the FOI Section need to consult on release of the documents with third parties or other agencies?

Documents held by the Department require third party consultation prior to release where they relate to:

- information that originated with or was received from a state or territory government/authority;
- business related information;
- personal information; and/or
- foreign governments or international organisations.

Other Commonwealth agencies may need to be consulted in relation to documents, for example the Department of the Prime Minister and Cabinet in relation to Cabinet documents and use of the Cabinet exemption. The FOI Section will assist with determining who will need to be consulted, and will arrange consultation in most cases.

When providing documents to the FOI Section please identify any third parties with whom you consider the FOI Section should consult.

Practical refusal reasons

A practical refusal reason exists if:

- the request does not sufficiently identify the documents requested; or
- the resource impact of processing the request would be substantial and unreasonable.

The Department may refuse a request if a practical refusal reason exists, after following a 'request consultation process'. As part of this process, the Department must provide assistance to the applicant to remove the practical refusal reason. The FOI Section undertakes this consultation with the applicant.

If you identify practical refusal reasons, provide evidence by completing the form at **Attachment A – Practical refusal reasons** and return to the FOI Section (foi@homeaffairs.gov.au) as soon as possible.

Is the request complicated and/or are the search results very large?

Where the request does not meet a practical refusal reason but is nevertheless complicated or voluminous, the FOI Section may be able to seek an extension of time to manage the request, or see if the applicant is willing to revise their request.

If the request is complex or voluminous, provide the FOI Section (foi@homeaffairs.gov.au) with any information that may justify an extension of time or assist the applicant to revise their request.

No documents are found

Are you unable to locate documents?

Ask other staff who may be able to help locate documents, including your SES. In some cases the TRIM Helpdesk will be able to assist in identifying and locating relevant records.

If you are unable to identify or locate documents, please complete **Attachment B – Unable to locate documents** and return to the FOI Section (foi@homeaffairs.gov.au) as soon as possible.

Additional reference material

- The *Processing non-personal Freedom of Information requests – Procedural Instruction (TI-6738)* [1 hr 30 min read].
- OAIC FOI Guidelines and advice: [Processing FOI requests: taking all reasonable steps to find documents](#) [9 min read].

Attachment A – Practical refusal reasons

Where the scope or size of the request may give rise to a practical refusal reason, please complete the relevant sections below and return to the FOI Section (foi@homeaffairs.gov.au). This record will provide evidence for the FOI decision-maker. If the decision is appealed, it will also assist to provide evidence to the Office of the Australian Information Commissioner.

FOI reference number: FA XX/XX/XXXXX

FOI request: [Insert scope of request]

Practical refusal reasons

Is the scope of the request unclear?

Provide details/evidence of the issue(s) or the additional information required to identify the documents:

Do the terms of the request mean that processing a request would require a 'substantial' and 'unreasonable' diversion of the Department's resources?

Provide file quantities and sizes. If possible, provide a sample of files for review by the FOI Section.

Provide any information that may assist the applicant in narrowing scope, such as a broad description of the different types of documents identified as in scope.

Attachment B – Unable to locate documents

Where you cannot locate documents, please complete the form below and return to the FOI Section (foi@homeaffairs.gov.au). This record will provide evidence for the FOI decision-maker and if the decision is appealed, will assist you to provide evidence to the Office of the Australian Information Commissioner.

FOI reference number: FA XX/XX/XXXXX

FOI request: [Insert scope of request]

Search details	Comment
Date searches undertaken	
Name and role of officer undertaking searches	
Names of systems and locations searched	
Search terms used	
Time taken to conduct searches	HH:MM
Limitations of the search	
Any other comments including: consultation with other staff or sections, contact with contracted service providers in possession of documents within the scope of the request, reasons why no documents have been located.	



OFFICIAL

FOI User Guide – Decision-making

This FOI User Guide is for staff in the Department of Home Affairs (the Department), including the Australian Border Force (the ABF), who are performing the role of decision-maker under the *Freedom of Information Act 1982* (the FOI Act).

You are an authorised FOI decision-maker if:

- you are holding or performing the duties of a position at:
 - the SES level in any area of the Department, including the ABF; or
 - the APS3 to EL2 level in the Freedom of Information Section.

The instrument of authorisation is available on LEGEND (*Freedom of Information (Secretary of the Department of Home Affairs) Authorisation 2021 (ADMIN 21/105)*) [PDF, 2 min read].

As an FOI decision-maker you are responsible for the decision on the FOI request, including:

- meeting timeframes set by the FOI contact officer (noting the Department must meet strict statutory timeframes);
- reviewing the draft decision and documents proposed for release;
- ensuring reasonable searches have been undertaken and the documents being considered are in scope of the request (whether they are being released or not);
- ensuring all potential harms in the documents have been addressed in your decision, and that any remaining sensitivities are managed by developing talking points and/or providing briefings for your reporting line;
- being satisfied with the decision, including discussing any concerns you have with the draft decision letter and documents proposed for release with the FOI contact officer if necessary; and
- signing the decision letter and providing a copy to the FOI Section.

If you have any concerns regarding your responsibilities, contact the FOI contact officer (specified in the email) as soon as possible to discuss.

This guidance is derived from the *Processing non-personal Freedom of Information requests – Procedural Instruction (TI-6738)* [1 hr 30 min read].

Stage 4: Decision-making

Following the assessment of, and consultation on, the documents in Stage 3, the FOI Section will mark-up the documents (if any) with proposed exemptions and draft a decision letter in accordance with the FOI Act and with regard to the FOI Guidelines (as required by subsection 15(5A) of the FOI Act).

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The draft decision letter will set out whether there are documents in scope of the request, whether any exemptions or conditional exemptions apply to the documents and the reasons why, and in the case of conditional exemptions will weigh the public interest factors for and against release of the information.

The email seeking your decision will explain who has been consulted during Stage 3, whether their feedback has been taken into account in the draft decision and where you can view this correspondence (i.e. TRIM folder).

You are required to:

- review the draft decision letter and documents marked-up with redactions;
- if you are not satisfied with the decision, contact the FOI contact officer to discuss the changes you wish to make (e.g. inserting additional relevant factors for the reasons of your decision), who will either make the requested changes and return them to you for your further review, or provide advice why the changes should not be made; and
- once you are satisfied with the decision letter, physically or electronically sign it and provide a signed copy to the FOI Section (foi@homeaffairs.gov.au).

Do you need help?

If you need help you can contact:

- the FOI contact officer listed in the email seeking your decision
- the FOI Section at foi@homeaffairs.gov.au.

Further reference material

- The *Processing non-personal Freedom of Information requests – Procedural Instruction (TI-6738)* [1 hr 30 min read].
- The *FOI User Guide – Search and retrieval – SM (TI-6740)* [15 min read].
- The Department's *Freedom of Information – Policy Statement (SM-3357)* [13 min read], which sets out the principles governing the Department's processing of FOI requests.
- The FOI Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/>.
- Other OAIC guidance and advice:
 - [Twelve tips for FOI decision-makers](#) [4 min read]
 - [Statement of reasons checklist](#) [4 min read]
 - [Fact sheet for FOI practitioners to provide to agency staff](#) [9 min read]
 - [Exemptions and conditional exemptions under the Freedom of Information Act 1982](#) [11 min read].
- The FOI Act is available on the [Federal Register of Legislation](#).
- [FOI Essentials](#) toolkit for FOI decision-makers in Australian Government agencies and minister's offices.