

**Compendium of information access laws across Australian states and territories
October 2023**

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
LEGISLATION	<i>Freedom of Information Act 1982 (Cth) (FOI Act)</i> <i>Australian Information Commissioner Act 2010 (Cth) (AIC Act)</i>	<u>Freedom of Information Act 2016 (ACT)</u> (ACT FOI Act)	<i>Government Information (Public Access) Act 2009 (NSW)</i> <i>Government Information (Information Commissioner) Act 2009 (NSW)</i>	<i>Information Act 2002 (NT)</i>	<i>Right to Information Act 2009 (QLD)</i>	<i>Freedom of Information Act 1991 (SA)</i>	<i>Right to Information Act 2009 (TAS)</i>	<i>Freedom of Information Act 1982 (VIC)</i>	<i>Freedom of Information Act 1992 (WA)</i>
OBJECTS	To give the Australian community access to information held by the Government of the Commonwealth, by: <ul style="list-style-type: none"> requiring agencies to publish the information; and providing for a right of access to documents. 	Provide right of access to government information unless, on balance, access would be contrary to the public interest. Recognise importance of public access to government information for the proper working of representative democracy. Enable public participation in government processes and promote improved decision-making. Promote accountability. Ensure that, to the fullest extent possible,	Open government information to be public by: <ul style="list-style-type: none"> authorising and encouraging the proactive release of information by NSW agencies; giving members of the public a legally enforceable right to access government information; and ensuring that access to government information is restricted only when there is an overriding public interest against releasing that information. (s3)	Contains general principle of accountability for government information – states that public sector organisations are required to: <ul style="list-style-type: none"> make available to the public such government information as is reasonably possible; provide government information to the public promptly; and assist the public to ensure that personal information is accurate, complete and up-to-date. The Act also protects the privacy of	Provides right of access unless contrary to the public interest.	Unqualified objects clause, followed by statement that the means by which the objects are to be achieved includes ‘conferring on each member of the public and on MPs a legally enforceable right to ... access ... subject only to such restrictions as are consistent with the public interest (including maintenance of the effective conduct of public affairs through the free and frank expression of opinions) and the preservation of personal privacy’. Act states that nothing in the Act is intended to prevent or discourage the publication of	Unqualified right of access to documents.	General right of access - limited only by exceptions and exemptions necessary for protection of essential public interests and private and business affairs of persons whose information is collected and held by agencies. Make available to the public, information about the operations of agencies, ensuring rules and practices affecting members of the public are readily available. Facilitate and promote, promptly and at the lowest	To enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public by: <ul style="list-style-type: none"> Creating a general right of access to State and local government documents Providing means to ensure that personal information held by State and local government is accurate, complete, up to date and not misleading

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		<p>government information is freely and publicly available to everyone.</p> <p>Facilitate and promote, promptly and at the lowest cost, disclosure of the maximum amount of government information.</p> <p>Ensure personal information held by the government is accurate, up-to-date and not misleading. (s6)</p>		<p>personal information held by public sector organisations (s3(b)).</p> <p>Act does not prevent/discourage public sector organisations from publishing, or providing access to government information (including exempt information) or correcting personal information, otherwise than under this Act if it is proper to do so or is required or permitted by law to be done.</p> <p>But public sector organisations are not required to provide access to government information if it is not in the public interest to do so.</p>		<p>documents, the giving of access to documents or the amendment of records otherwise under the Act if it is proper and reasonable to do so or if it is permitted or required by any other Act or law.</p>		<p>reasonable cost, the disclosure of information.</p>	<ul style="list-style-type: none"> Requiring that certain documents concerning State and local government operations be made available to the public (s3).
SECTORS	<p>Australian Government Agencies</p> <p>Australian Government Ministers (s 11 FOI Act).</p> <p>'Prescribed authority' (s4 FOI Act):</p> <ul style="list-style-type: none"> body corporate or unincorporated 	<p>Government agencies (s 15)</p> <p>Administrative unit</p> <p>Statutory office-holder and staff</p> <p>Territory authority (excluding judicial council, law society)</p> <p>Territory instrumentality</p> <p>Territory-owned corporations</p>	<p>Government agencies</p> <p>Ministers and officers</p> <p>Local councils</p> <p>State owned corporations</p> <p>Contractors through contract arrangements (s121)</p> <p>Universities</p>	<p>Government agencies</p> <p>Government business divisions</p> <p>Person/body declared by the regulations to be a public sector organisation (s5)</p> <p>Appointed or established under an Act (s5)</p>	<p>Government department</p> <p>Ministers and staff or consultants (s13)</p> <p>Local Government</p> <p>Government Owned Corporation</p> <p>Subsidiary of a Government</p>	<p>Government ministers</p> <p>Persons who hold offices established by an Act</p> <p>Administrative units of the Public Service</p> <p>SA Police</p> <p>Councils</p>	<p>State Government agencies</p> <p>Ministers</p> <p>Local Government</p> <p>Statutory Authorities</p> <p>State and Council owned companies</p>	<p>Government agencies incl. Departments</p> <p>Local councils</p> <p>Universities</p> <p>Police</p> <p>'Prescribed authority'</p> <p>= body corporate established for a public purpose per the Act or</p>	<p>Most WA State government agencies, including departments, authorities, boards and commissions</p> <p>Ministers</p> <p>Local government agencies</p> <p>Public universities</p>

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	<p>body established for a public purpose</p> <ul style="list-style-type: none"> NBN Co any other body declared by the regulations <p>Norfolk Island (s 4B FOI Act)</p> <p>Restricted application to courts and court registrar (s 5 FOI Act)</p> <p>Restricted application to tribunals (s 6 and sch 1 FOI Act)</p> <p>Restricted application to the Governor-General and Official Secretary to the Governor-General (s 6A FOI Act)</p> <p>An agency if contracted to perform functions or exercise powers of the agency (s 6C FOI Act)</p> <p>Note:</p> <p>Excludes certain persons and bodies (s 7 and sch 2 FOI Act)</p> <p>Documents to which access is not able to be obtained (s 12 FOI Act)</p>	<p>Territory-owned corporations, subsidiary of a Territory-owned corporation</p> <p>Office of the Legislative Assembly</p> <p>Officers of the Legislative Assembly</p> <p>Supreme Court</p> <p>Magistrates Court</p> <p>ACT Civil and Administrative Appeals Tribunal</p> <p>Board of inquiry</p> <p>Judicial commission</p> <p>Royal commission</p> <p>Government Ministers (s 14) (excludes information relating to a Minister's personal or political activities / created or received by a Minister in the Minister's capacity as a member of the Legislative Assembly).</p>	<p>Public authorities (s4)</p> <p>Courts (s4)</p> <p>Excludes bodies identified in sch 2 (legislative assembly, assembly, committee of either or both of these bodies, royal commission, special commission of enquiry are NOT a 'public authority' for the purposes of the NSW Act).</p>	<p>Holding an office under an Act (s5)</p> <p>Local city and town councils, shire councils, agencies</p> <p>Statutory or government owned corporations</p> <p>Contractors</p> <p>Courts or tribunals other than judicial functions and decision-making functions</p> <p>NT police force</p>	<p>Owned Corporation (s14)</p> <p>Public Authority (including universities, hospital and health services)</p> <p>Excluded bodies and particular functions of bodies to which this Act does not apply (s17, Sch 2, part 1 and Sch 2, part 2)</p>	<p>Bodies established or continued in existence for a public purpose by an Act; bodies subject to control or direction by the Governor, a Minister or other instrumentality or agency of the Crown or a council, regional and council development assessment panels.</p> <p>Act does not apply to Parliament or parliamentary committees (s 5A), nor to the judicial functions of courts and tribunals (s 6).</p> <p>Some agencies are specifically exempt. Certain information held or compiled by non-exempt agencies is specifically exempt. (Schedule 2 to the Act and <i>Freedom of Information (Exempt Agency) Regulations 2008</i>).</p>	<p>Public Authorities including Tasmania Police and the University of Tasmania</p> <p>Excludes certain persons and bodies (s6)</p> <p>Specifies that information in the possession of a Minister which does not relate to the Minister's official business is exempt (s28)</p>	<p>body unincorporated by the Governor in Council or by a Minister</p> <p>= any other body, whether incorporated or unincorporated, declared by the regulations</p> <p>Blanket exemption for <i>documents</i> created by the Bureau of Criminal Intelligence</p> <p>Act does not apply to documents in the possession of the VIC FOI Commissioner or their office relating to a review of a decision or a complaint</p>	<p>Private sector providers of custodial services including prisons and prisoner transport</p> <p>(see definitions of 'agency', 'public body or office' and 'contractor' in the Glossary to the FOI Act).</p> <p>Some agencies, or parts of agencies, are specifically exempt (Sch. 2).</p> <p>Restricted application to courts and tribunals - only documents related to matters of an administrative nature (clause 5 of the Glossary).</p>

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	No access to documents of certain institutions (s 13 FOI Act)								
JURISDICTION	<p>Right of amendment or annotation (ss 48, 50 FOI Act).</p> <p>Internal review decision (ss 53A, 53B FOI Act).</p> <p>Australian Information Commissioner review of agency and Minister's decisions (Part VII FOI Act).</p> <p>Complaints and own motion investigations (s 69 FOI Act).</p> <p>Vexatious applicant declarations (s 89K FOI Act).</p> <p>Merits review/appeal to the Administrative Appeals Tribunal (s 57A FOI Act).</p> <p>Appeal on a question of law to the Federal Court of Australia (s 56 FOI Act).</p>	<p>External merits review of decisions made by agencies on open access information, access applications and amendment applications (s 82, Schedule 3).</p> <p>Monitor the operation of the ACT FOI Act, including the publication of open access information and compliance with Chief Minister's annual statement under s 95 and with the Act generally.</p> <p>Investigate complaints about an agency or Minister's action, or failure to take action, in relation to any functions under ACT FOI Act (s 69).</p> <p>See also 'Functions and Role of the Information Commissioner' section.</p>	<p>Reviewable decisions (s80)</p> <p>Complaints (s17 GIIC)</p> <p>Investigation of agency systems, policies and practices (s21 GIIC)</p>			<p>Right to internal review of original determination (unless original determination made by or at the direction of the principal officer of the agency). (s 29(6))</p> <p>Right to seek amendment of agency records (s 30). Right to seek annotation if amendment is not made (s 37).</p> <p>Agency may refuse to deal with application if it is part of a pattern of conduct that amounts to abuse of right of access or is made for a purpose other than to obtain access to information. (s 18(2a)).</p> <p>Right to external review by the Ombudsman. (s 39).</p> <p>Merits review to the SA Civil and Administrative Tribunal (SACAT). (Agencies may only seek review</p>	<p>External merits review of decisions (s44)</p> <p>Other applications for review in certain circumstances including sufficiency of search and deemed refusal (ss45 & 46)</p> <p>Appeal to Supreme Court on a question of law</p>	<p>Review decisions made by Agencies (s49A)</p> <p>Cannot review decisions of Ministers or Principal Officers, appeal straight to VCAT on those.</p> <p>Investigate Complaints (s61A)</p> <p>Monitor compliance with professional standards (if any) prescribed by the Regs (s6C)</p> <p>Report on operation of FOIA (s64)</p>	<p>External merit review of agency decisions on access and amendment applications (s63).</p> <p>Make decisions on other applications in relation to timeframes for agencies to deal with access applications and the requirements to consult third parties (s63).</p> <p>See also 'Functions and Role of the Information Commissioner' section.</p>

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						on a question of law.) (s 40).			
PUBLICATION	<ul style="list-style-type: none"> Require information publication scheme (Part II, Div 2 FOI Act) 	<p>Proactive disclosure of 'open access information' (s 24) unless the information is contrary to the public interest information.</p> <p>If open access information is not made available because it is contrary to the public interest information, agency or Minister must publish a description, grounds for non-release, statement of reasons, statement about review rights (subject to exceptions e.g. endanger life).</p>	<p>Requires mandatory proactive release of 'open access information' (s6, s18) including:</p> <ul style="list-style-type: none"> an agency information guide; certain information tabled in Parliament; agency's disclosure log of its access applications; register of government contracts; and record of information not made available. <p>Additional open access requirements (GIPA Regulation, cl 5) for:</p> <ul style="list-style-type: none"> Ministers; 	<ul style="list-style-type: none"> Publication of specified information (s11) 	<ul style="list-style-type: none"> Requirement for policy documents to be publicly available and a publication scheme to set out the classes of information available and the terms on which they are available, including charges Scheme must comply with the ministerial guidelines – guidelines set out the classes of information to be published, as well as the operational requirements of publication, including easy access through a 	<ul style="list-style-type: none"> Publication of specified information (s9) 	<ul style="list-style-type: none"> Promotes the proactive release of information by public authorities and Ministers and provides for 4 types of disclosure, incl. required and routine disclosure Information disclosure policy is required Processes in place must comply with the guidelines issues by the Ombudsman (s49) 	<ul style="list-style-type: none"> Publication of specified information (s7) 	<p>Requires publication of an up-to-date information statement containing specified information including a description of the kinds of documents usually held by the agency (ss94 & 96).</p> <p>Requires public availability for inspection and purchase of agencies most up-to-date information statement and each of its internal manuals (ss95 & 97).</p> <p>Requirements do not apply to Ministers or 'exempt agencies'.</p>

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			<ul style="list-style-type: none"> Government Departments; Statutory bodies; and Local councils. 		<p>website and regular review</p> <p>Makes distinction b/w requirements for disclosure logs of depts. and Ministers and those of other agencies (requirements per s78)</p>				
OVERSIGHT		ACT Legislative Assembly ACAT (for Ombudsman review decisions)	Joint Parliamentary Committee (s44 GIIC)		Legal Affairs and Community Safety Committee (s189)	Crime and Public Integrity Policy Committee	Joint Standing Committee on Integrity	Accountability & Oversight Committee of Parliament	Standing Committee on Public Administration, Legislative Council, WA Parliament
FUNCTIONS AND ROLE OF INFORMATION COMMISSIONER	<p>Information Commissioner, FOI and Privacy functions (under the FOI Act and Privacy Act 1988, AIC Act s 8, 9 and 10).</p> <p>Information Commissioner functions - Report to the Minister on any matter that relates to the Commonwealth Government's policy and practice regarding information held by the Government and systems (s 7 AIC Act)</p> <p>Freedom of Information Commissioner functions (s8 FOI):</p>	<p>Review decisions made by ACT Government agencies and Ministers (s 82). Grant extensions of time (s 42, s 78).</p> <p>Monitor operation of the ACT FOI Act, including the publication of open access information (s 64(1)(c)).</p> <p>Make open access declarations (s 65).</p> <p>Make guidelines (s 66).</p> <p>Prepare annual report on the operation of the ACT FOI Act (s 67).</p> <p>Investigate complaints (s 69).</p>	<p>Promote public awareness and objects of Act (s17)</p> <p>Produce annual reports (s36 GIIC)</p> <p>Report following investigation – to Minister, principal officer, Secretary DPC (s24 GIIC)</p> <p>Provide information, advice, assistance and training to agencies (s17).</p> <p>Assist agencies including services to assist with lodgement, handling and processing of applications (s17)</p> <p>Issue guidelines and publications to assist agencies</p>	<p>Promote public awareness of Act objects</p> <p>Produce annual reports</p> <p>Produce special reports at the direction of the Minister</p> <p>Develop and issue guidelines about FOI access and correction and privacy for public sector</p> <p>Provide training and advice on the provisions of the Act</p> <p>Assess proposed legislation and relevant policies</p> <p>Conduct audits of records held by PSOs for compliance</p>	<p>Promote greater awareness of operation of the Act</p> <p>Provide guidance on interpretation and administration of Act</p> <p>Provide information and assistance to agencies, applicants and third parties with access applications</p> <p>Monitoring application of the public interest test</p> <p>Commissioning external research and surveys to monitor achievement of the Act's stated objectives</p>	<p>Relevant review authority in relation to determinations made under the FOI Act (s39(1))</p> <p>Ombudsman must make annual report on work of his office to be laid before both Houses of Parliament (s 29 of <i>Ombudsman Act 1972.</i>)</p> <p>Minister administering the Act must make an annual report to Parliament (s54)</p> <p>Minister administering the Act must, in consultation with the Ombudsman, develop and maintain appropriate</p>	<p>Conduct independent, external merits review of agency decisions.</p> <p>Issue guidelines and manual and provide advice to public authorities on the process of disclosure and in relation to the operation of the Act generally (s49)</p> <p>Provide training on the operation of the Act</p>	<p>Promote agencies' understanding and acceptance of the Act and the objects of the Act (s6C)</p> <p>Report annually on operation of the Act (s64)</p> <p>Provide advice, recommendations to Minister, if requested (s6C)</p> <p>Conduct reviews (s49A)</p> <p>Investigate complaints (s61A)</p> <p>Provide advice, education and guidance to agencies in relation to compliance with any professional standards</p>	<p>Commissioner's main function is to deal with applications for external review ('complaints') of decisions made by agencies on access and amendment applications under the Act. Commissioner provides independent merits review of agency decisions (s63).</p> <p>Other functions include:</p> <ul style="list-style-type: none"> Ensuring agencies are aware of their responsibilities and the public are aware of their rights under the Act

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	<ul style="list-style-type: none"> • promote public awareness of Act objects; • assist agencies to publish information; • provide information, advice, assistance and training; • issue guidelines; • make reports and recommendations to Minister re legislative change or administrative action; • monitoring, investigating and reporting on agency compliance; • review decisions; • investigations; • collect information/statistics about FOI matters for s30 annual report; and • other functions conferred on the Information Commissioner by the FOI Act or other legislation 		<p>and the public (s17)</p> <p>Review decisions of agencies and monitor, audit and report on the exercise by agencies of their functions under, and compliance with, the Act (s17)</p> <p>Provide reports and recommendations to the Minister (s17)</p> <p>Receive notice, issue guidelines and models in connection with agency information guides (s22)</p> <p>GIIC or other Acts (s14 GIIC and agency head GSE; PFA Act)</p> <p>Produce reports annually on operation of GIPA (s37 GIIC)</p> <p>Special report to Parliament (s38)</p>	<p>Research and monitor FOI and privacy developments elsewhere</p> <p>Make public statements about relevant FOI and privacy matters</p> <p>Deal with FOI and privacy complaints</p> <p>Grant s81 & 81A authorisations to collect, use or disclose info in a manner inconsistent with or contravene IPPs</p> <p>Approve by gazettal a Code of Practice (s73)</p> <p>Serve PSOs with a compliance notice (s82)</p>	<p>Identifying and commenting on legislative and administrative changes to improve administration of the Act</p> <p>Decide applications for extensions of time; Decide applications for financial hardship; Making varying or revoking declarations under s114 and s115 (s129)</p> <p>External review functions - investigating and reviewing decisions of agencies and Ministers (s130)</p> <p>Performance monitoring functions - including reviewing and reporting on agencies compliance with the RTI and IP Act; Issue guidelines (s132)</p> <p>Report to Parliament on matters relating to a particular external review</p> <p>Report on operations of the OIC (s184)</p>	<p>training programs to assist agencies in complying with this Act (s54A)</p> <p>State Records of South Australia assists the Minister to administer the legislation (general advice, drafting policy, guidelines, information sheets, training government agencies)</p>		<p>Monitor compliance with professional standards</p> <p>Provide advice, education to agencies in relation to the Commissioner's functions (s6C)</p> <p>Report to oversight committee if 4 or more FOIC decisions overturned by Tribunal or Supreme Court in any 12-month period (s64A)</p>	<ul style="list-style-type: none"> • Providing assistance to members of the public and agencies on matters relevant to the FOI Act • Imposing reductions in time and allowing extensions of time for agencies to deal with applications under the FOI Act • Giving approvals to give access to documents without consulting third parties in certain circumstances (s63). <p>Commissioner must report annually to Parliament on the operation of the Act and operations of the Commissioner during the year (s111).</p> <p>Commissioner must publish decisions in full or in an abbreviated, summary or note form, as is appropriate to ensure that the</p>

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	(s8 and 11 AIC Act) Information Commissioner functions in relation to the review of the information publication scheme (s 8F FOI Act)								public is adequately informed of the grounds on which decisions are made (s76(8)).
POWERS OF COMPULSION AND PROCEDURES	<p>Informal and lowest reasonable cost objective (FOI Act objects s 3, procedures s 55). Conduct an IC review in whatever way the Commissioner considers appropriate (s 55(2)(a) FOI Act). Give notice to require the agency or Minister to provide an adequate statement of reasons pursuant to s 26(1) FOI Act (s 55E FOI Act) Give notice for a person to give information of a kind specified in the notice or to produce document/s</p>	<p>Grant decision-makers' extensions of time to process access applications (s 42, s 78). Declare that information is open access information (s 65). Make guidelines (s 66). In undertaking a review, the Ombudsman is entitled to full and free access at reasonable times to all relevant government information of the agency or Minister concerned (s 68).</p>	<p>General procedures, informality, substantial merits, determine procedures, not bound by rules of evidence (s15 GIIC) Dealing with a complaint: information; discussions; facilitate direct resolution; investigation (s19 GIIC) Require an agency to produce information, records, or other things (s25 GIIC) Entry powers (s26 GIIC) Prevent contravention - standing to apply for an injunction and judicial</p>	<p>Commissioner is entitled to full and free access at all reasonable times to the records or other things of a PSO (s87(d)) Staff must assist public to exercise their rights under the Act but must not give legal advice (s88) Commissioner may delegate any powers or functions but not without the approval of the Minister (s89) Commissioner has the power to compel evidence (s110A) Commissioner must not disclose exempt information in reports, decisions</p>	<p>Early resolution (s90) Procedures within discretion of the IC, little formality and technicality, not bound by the rules of evidence(s95) Give directions (s95(2)) adopt procedures that are fair; ensure opportunity for participant to present views (s97(2)(a) and (b)) Preliminary enquiries (s98) Require better reasons (s99) Access to documents (s100) Require access in a particular form (s101),</p>	<p>In conducting a review, the Ombudsman may carry out an investigation into the subject matter of the application (and may exercise the investigative powers conferred on the Ombudsman by the <i>Ombudsman Act 1972</i>, including powers of a Commission as defined in the <i>Royal Commissions Act 1972</i>) (s38(5)(a)) In any proceedings concerning a determination made by the agency under the Act, the burden of establishing that the determination</p>		<p>General procedure reviews and complaints to be conducted with as little formality and technicality as possible (s49H & s61G) FOIC reviews bound by rules of natural justice (s49H) FOIC power to compel agency to produce documents (issue production notice) limited to investigation of complaints (s61J) FOIC or agency may apply to Supreme Court to determine question of FOIC's jurisdiction to issue production notice (s61K)</p>	<p>Commissioner has the power to do all things that are necessary or convenient to be done for or in connection with the performance of functions (s64). Commissioner may obtain information from such persons and sources, and make such investigations and inquiries, as thinks fit (in order to deal with an external review) (s70). External review proceedings conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper</p>

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	<p>specified by the notice (ss 55R, 55S FOI Act)</p> <p>Require a principal officer of an agency to produce documents that are claimed to be exempt (s 55T FOI Act)</p> <p>May only require the principal officer of an agency or a Minister to produce a document they claim is exempt under the national security exemption (s 33), Cabinet documents exemption (s 34) or Parliamentary Budget Office documents exemption (s 45A) if the Commissioner is not satisfied by affidavit or other evidence that the document is exempt (s 55U FOI Act)</p> <p>May order an agency or minister to undertake further searches for documents (s 55V FOI Act)</p> <p>Compel a person to appear before him or her (s 55W FOI Act)</p>	<p>Require a person to give information relevant to Ombudsman review (s 79).</p> <p>Direct decision-maker, agency, or Minister to conduct further searches for information (s 80).</p> <p>Facilitate informal resolution of review matters (s 80A).</p> <p>Require parties to attend mediation to resolve review matter (s 81).</p> <p>Refer questions of law to the ACT Civil and Administrative Appeals Tribunal (ACAT) (s 83).</p>	<p>review (s28 GIIC)</p> <p>Formal enquiries -powers conferred on a Royal Commission for IC and witnesses</p> <p>Furnish info to IC IC may furnish information to Ombudsman; ICAC; DPP; PIC; and agencies (ss 31-33 GIIC)</p>	<p>or any other form (s102)</p> <p>Commissioner can refer application back to PSO and require a further review of its internal review decision (s103(2))</p> <p>CEOs have a duty to ensure their organisation complies with the standards of records (and archives) management which must be prepared and reviewed in consultation with or with the input from the Commissioner (ss137, 138 and 139)</p>	<p>Require search (s102)</p> <p>Require information, documents and attendance (s103)</p> <p>Examining witnesses (s104)</p> <p>Additional power to review any decision made by agency or Minister regarding the access application (s105)</p> <p>IC to ensure nondisclosure of particular information (s108)</p> <p>Requirement to assist during review (s96)</p> <p>IC must include reasons for decision (s110)</p>	<p>is justified lies on the agency (s48)</p> <p>In conducting a review, the Ombudsman may require agency to sort or compile documents (if agency has failed to do so) or undertake consultations relevant to the review that should have been undertaken (s38(5)(b))</p> <p>Ombudsman must notify applicant, agency and interested persons of determination and reasons for decision (s38(13))</p>		<p>In matters before VCAT the agency has the onus to establish any exemption was justified (s55)</p>	<p>consideration of the matters before the Commissioner permit.</p> <p>Commissioner:</p> <ul style="list-style-type: none"> • is not bound by the rules of evidence • has to ensure that the parties to an external review are given a reasonable opportunity to make submissions to the Commissioner • may determine the procedure for investigations and dealing with an external review and give any directions as to the conduct of the proceedings • must provide reasons for decision (ss 70 and 76). <p>Parties to an external review may be represented. Commissioner's decisions are legally binding (s76).</p>

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	Require evidence be given on an oath or affirmation (s 55X FOI Act)								
REVIEW POWERS Specific review powers by Information Commissioner	<p>IC reviewable decision – access refusal decisions (s 54L FOI Act and access grant decisions (s 54M FOI Act)</p> <p>An agency or Minister must comply with an IC review decision (s 55N FOI Act)</p> <p>On receiving an FOI request, the agency or Minister must no later than 14 days after the day the request is received, take all reasonable steps to notify the applicant that the application has been received (s 15(5)(a) FOI Act)</p> <p>The Commissioner has IC review functions (Part 7 FOI Act).</p> <p>The Commissioner can make a decision to affirm, vary, or set aside and substitute an access refusal or access grant decision of an agency or</p>	<p>The Ombudsman can review decisions:</p> <ul style="list-style-type: none"> to make / to not make open access information publicly available under s 24(1) to give access to government information under s 35(1)(a) that government information is not held under s35(1)(b) to refuse access to government information under s 35(1)(c) to refuse to deal with an access application under s 35(1)(d) to refuse to confirm or deny government information is held under s 35(1)(e) 	<p>Reviewable decision (s80)</p> <p>IC power of recommendation in relation to reviews (ss92, 93, 94) and general procedure (s95)</p> <p>Making of a review application s89 (GIPA)</p> <p>Onus on agency to justify (s97(1))</p> <p>Onus on applicant to establish entitlement to reduction in processing charge (97(3))</p> <p>Onus on 3rd party applicant to justify non release (s97(2))</p> <p>IC refusal to entertain frivolous, vexatious, misconceived, lacking in substance; or review would require unreasonable and substantial diversion of resources; failure without reasonable</p>	<p>90 days for applicants to complain to OIC from the date of PSO's internal review notification;</p> <p>60 days to appeal to the Supreme Court on a matter of law only</p> <p>28 days for referral to NTCAT for hearing on application by the Respondent, when complaint is substantiated but not resolved by mediation (s112A(2)) or on application from the Complainant when the matter is dismissed (s112A(1)(b))</p>	<p>Reviewable decision (defined in Schedule 6)</p> <p>Must be made within 20 business days from the date of the written notice of the decision (or within the longer period the IC allows) (s88)</p> <p>Affirm, vary or set aside and substitute decision (s110)</p> <p>Decide not to review or further deal with all or part of external review application (s94)</p> <p>Declare vexatious applicants (s114)</p> <p>Vary or revoke vexatious declaration (s115)</p>	<p>Review determination of agency to refuse to deal with an application (s18).</p> <p>Review of determination of agency to refuse access (s20).</p> <p>Review of agency's determination to refuse to amend records (s35).</p> <p>Review of agency's determination to refuse to add notation to records (s37).</p> <p>On application for external review the Ombudsman may confirm, vary or reverse the determination the subject of the review (s38(11)).</p> <p>Ombudsman cannot make a determination that access is to be given to an exempt document but may offer reasons as to why an agency might give access to the document despite its</p>	<p>External review of agency decision on internal review (s 44).</p> <p>External review where: initial decision made by Principal Officer of Minister and therefore internal review not available; the agency or Minister has made a decision that the requested information does not exist or is not in possession, where insufficiency of search; and where no decision has been made within the stipulated time (s45(1)).</p> <p>Review of delayed decision as a deemed refusal (s46)).</p> <p>Ombudsman may refer application back to agency for decision; promote</p>	<p>Reviewable decision of agency (s49A)</p> <p>FOIC may choose not to accept or may dismiss review at any stage if – frivolous, vexatious, etc., failure to cooperate, more appropriate to go to Tribunal, review not appropriate in circumstances, or unable to contact applicant (s49G)</p> <p>Agencies must assist FOIC (s49I)</p> <p>Must give parties opportunity to make written submissions (s49H)</p> <p>FOIC may resolve by agreement (s49K)</p> <p>FOIC may refer back to Agency for fresh decision (s49L)</p> <p>FOIC may facilitate negotiated agreement (s49N)</p>	<p>In dealing with an external review, the Commissioner may:</p> <ul style="list-style-type: none"> obtain information and make inquiries determine the procedure for investigating and dealing with external reviews and give directions as to the conduct of proceedings suspend inquiries, investigations or other proceedings so that efforts can be made to resolve the external review by conciliation or negotiation give directions and do such other things as Commissioner thinks fit nominate a person to act as a conciliator require the production of information or documents

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	<p>Minister (s 55K FOI Act). The Commissioner may make preliminary inquiries (s 54V FOI Act). The Commissioner may decide not to undertake or continue a IC review if the IC review applicant is frivolous, vexatious, misconceived, lacking in substance or not made in good faith (s 54W(a)(i) FOI Act); applicant's failure to cooperate in progressing application or without reasonable excuse (s 54W(a)(ii) FOI Act); applicant un-contactable after making all reasonable attempts (s 54W(a)(iii) FOI Act); failure to comply with a direction of the Information Commissioner (s 54W(c) FOI Act)</p> <p>Decide not to undertake or continue an IC review if the</p>	<ul style="list-style-type: none"> to refuse to amend personal information under s 61(1)(b) <p>The Ombudsman can require a person to give information relevant to a review (s 79).</p> <p>The Ombudsman can direct an agency or Minister to conduct further searches (s 80).</p> <p>The Ombudsman may refer a question of law to the ACT civil and Administrative Appeal Tribunal (ACAT) (s 83(2)).</p>	excuse of co-operate with IC; inability to contact application (s96)			<p>exempt status (s38(12)). Ombudsman may publish reasons for a determination, if Ombudsman consider it is in the public interest or the interests of the agency to do so (s38(14)). Ombudsman may comment on any unreasonable, frivolous or vexatious conduct on the part of applicant or agency (s38(16)). Ombudsman has power to review a fee or charge imposed by an agency under s 53 FOI Act (and in accordance with the Freedom of Information (Fees and Charges) Regulations 2003.). A person can seek a review of an agency's determination of a fee or charge. A person dissatisfied with the agency's review may seek a further review from the Ombudsman. The Ombudsman may waive, vary,</p>	settlement of an application, decline to continue where the applicant fails to comply with a direction; require that further or better reasons for decision be given; and decline a review on the grounds that it is vexatious or lacking in substance (s47(1)).	<p>FOIC may ask agency for explanation re exemption/s and, if not satisfied, may ask to inspect and make copies of review documents (s63C) FOIC notice of decision must set out reasons (s49P) Decision of FOIC has same effect as decision of agency (s49P) FOIC cannot be a party to a review by the Tribunal but may be called on to assist Tribunal in a review (s51) Power to make recommendation on matter arising in review to a 'relevant authority' (s49O)</p>	<ul style="list-style-type: none"> require a attendance before the Commissioner to answer questions examine a person under oath or affirmation give directions or do things necessary to avoid the disclosure of exempt matter or the existence or non existence of certain exempt matter require an agency to conduct additional searches review any decision made by the agency in relation to the access application and decide any matter in respect of the access application that could have been made by the agency confirm, vary or set aside agency decision (ss 71 – 76 & 26)

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	<p>Information Commission is satisfied that the interests of the administration of the FOI Act make it desirable that the IC reviewable decision be considered by the AAT (s 54W(b) of the FOI Act).</p> <p>Decide not to investigate a complaint made under s 70 (s 73 FOI Act)</p> <p>May by written instrument declare a person a vexatious applicant (s 89K FOI Act)</p>	<p>A review participant may appeal the Ombudsman's decision to the ACAT within 20 working days of the Ombudsman's decision (s 84).</p>				<p>confirm or vary the fee or charge and/or give directions as to the payment for a fee or charge (s53(4)).</p>			<p>Commissioner's decision must be in writing May decide not to deal with an external review application or to stop dealing with the external review application because it is frivolous, vexatious, misconceived or lacking in substance (s67).</p> <p>No power to make a decision to the effect that access is to be given to an exempt document (s76).</p>
<p>TIME FRAMES Review by the Information Commissioner i.e. maximum days to escalate matter (external review)</p>	<p>An application for IC review of an 'access refusal' decision (s 54L) must be made within 60 days after the notice of the IC reviewable decision was given (s 54S(1) FOI Act)</p> <p>An application for IC review on an 'access grant' decision (s 54M) must be made within 30 days after the notice of the IC reviewable decision was given (s 54S(2) FOI Act)</p>	<p>An application for Ombudsman review must be made within 20 working days after the day notice of the decision was published in the disclosure log (s74(1)) / the day notice was given to the applicant / the day the decision was taken to be made (deemed decision). Ombudsman can grant an extension of time (s 74(1)(b)).</p>	<p>Review by Information Commissioner – application to be made within 40 working days after notice of the decision given to the applicant (s90) An agency's decision as to the validity of an application must be made and notified to the applicant as soon as practicable after the agency receives the application and in any event within 5</p>	<p>Applicant has 90 days after reviewing the notice to make a complaint to Information commissioner (s41(b))</p>	<p>Application for external review must be made within 20 business days from the date of the written notice of the decision (or within the longer period the IC allows) (s88(1)(d)) Within 10 business days after the purported application is received, the entity must give prescribed written notice to the</p>	<p>Person aggrieved by a determination of an agency following an internal review may apply to the Ombudsman for a review of the determination (s38) Application must be made within 30 days after the person received notification of the determination (s38(3)). Ombudsman has a discretion to</p>	<p>Application must be made within 20 working days from the date the decision is received, or if no decision is received, 20 working days from the 15 working days from the date the application for disclosure was lodged S44(1). There is no power to extend time.</p>	<p>Application for review of decision must be received within 28 days after the day on which written notice in writing is given (s49B) Required period for FOIC to complete review is 30 days or longer period agreed in writing by Applicant (s49J) Complaint must be made within 60 days after the</p>	<p>Application for external review to be lodged within 60 days after being given written notice of the internal review decision (if access applicant) or within 30 days if a third party (s66). Commissioner to make a decision on an external review within 30 days after the external review application was made unless the Commissioner considers that it is</p>

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	An FOI applicant or an affected third party may ask the Information ic for an extension of time to apply for IC review (s 54T FOI Act)	Ombudsman must make a decision on the review within 30 working days (s 82) after the day the application for Ombudsman review was made; or if notice to produce information given (s 79) – the end of the period in notice. Ombudsman can suspend review for up to 30 working days if Ombudsman first assists parties to informally resolve matter or refers parties to mediation (s 82(3)).	working days after the application is received. (s51(2)) Review by the Information Commissioner must be completed within 40 working days after the Commissioner receives all information the Commissioner considers necessary to complete the review. (s92A)		applicant of the decision. (s32(2))	extend time (s38(4)). Application to review an agency's determination must be made within 30 days after notice of the decision (s39(3))		action or conduct complained of occurred (s61A(4))	impracticable to do so (s76). Agencies must deal with an access application as soon as practicable or within the "permitted period" - 45 days or as agreed between the applicant and the agency or as allowed by the Commissioner (s13). If applicant does not receive a notice of decision with the time frames outlined in the Act, they can seek the next level of review (internal or external).
COMPLAINTS MANAGEMENT AND DISPUTE RESOLUTION POWERS/FUNCTIONS	Investigate complaints against agencies in the performance of their functions under the FOI Act. Initiate own motion investigations (s 69 FOI Act)	Investigate complaints against agencies or Minister's in the performance of their functions under the ACT FOI Act (s 69). The Ombudsman can direct an agency or Minister to conduct further searches for information (s 80). The Ombudsman may assist a	Making of a complaint s17 (GIIC) Assist resolution, investigate, refer. Dealing with a complaint: information; discussions; facilitate direct resolution; investigation (s19 GIIC) Require an agency to produce information, records, or other things (s25 GIIC)	Complaints may be dealt with jointly (s104A) Accept, reject or refer a complaint back to the PSO within 90 days (s106) Refer a complaint to Ombudsman, Health Complaints Commission or interstate Privacy Commissioner (s108) Investigate an accepted complaint (s110)	Onus on agency to justify (s87(1)) Onus on participant objecting if disclosure decision (s87(2)) IC refusal to deal with all or part of external review application if frivolous, vexatious, misconceived, lacking in substance; failure to comply with direction by IC; failure to	Ombudsman may try to effect a settlement between participants to the review (s38(5)(c)(i)) At request of agency, may suspend review to allow an opportunity for a settlement to be negotiated (s38(5)(c)(ii)) Agency and applicant must cooperate in the	No complaints function under the Act, but complaint can be made under the <i>Ombudsman Act 1978</i> . The Ombudsman does not have power, however, to investigate a matter under the Ombudsman Act if it could be the subject of review under the RTI Act ((s47(3)). Ombudsman can promote	Handle complaints (s61A) FOIC may refer complaint to another body if more appropriate to deal with (s61C) FOIC may not accept or may dismiss complaint at any stage if – frivolous, vexatious, etc., failure to cooperate, review not appropriate in circs, or unable to	Commissioner is not given express power to investigate expressions of dissatisfaction about the way that an agency has dealt with an access application except as it relates to an external review before the Commissioner. Commissioner may use conciliation dealing with

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		<p>respondent and applicant to a review to resolve the matter informally (s 80A).</p> <p>The Ombudsman can refer a matter for mediation and require parties to attend (s 81).</p>	<p>Entry powers (s26 GIIC)</p> <p>Prevent contravention - standing to apply for an injunction and judicial review (s28 GIIC)</p> <p>Formal enquiries - powers conferred on a Royal Commission for IC and witnesses</p> <p>Furnish info to IC. IC may furnish information to Ombudsman; ICAC; DPP; PIC; and agencies (ss 31-33 GIIC)</p>	<p>Decide on the release of 3rd party information</p> <p>Decide whether there is sufficient prima facie evidence of the matter complained of</p> <p>Notify parties with a written prima facie decision</p> <p>Refer matter to mediation as a precondition to a Tribunal proceeding if not already referred to mediation during process of investigation</p> <p>Conduct the mediation and provide mediation certificate (s111)</p> <p>Refer a complaint to the Tribunal after receiving an application from the Complainant (s112A(1)) or application from the Respondent (s112A(2)), both of which must be made within 28 days of receiving the decision to dismiss or if not resolved by mediation or other agreement respectively</p> <p>Commissioner must refer the complaint to the</p>	<p>cooperate in progressing the external review application without reasonable excuse; inability to contact applicant (s94); substantial and unreasonable diversion of resources (s41); previous application for same documents (s43)</p>	<p>process (including attempts of Ombudsman to effect a settlement) (s38(7))</p> <p>Ombudsman may dismiss an application if applicant has failed to comply with s38(7) (s38(8)).</p> <p>Ombudsman might conciliate a complaint or investigate an administrative error on the part of an agency administering the FOI Act under provisions of the <i>Ombudsman Act 1972</i>.</p>	<p>settlement of an application for review and give directions in this regard ((s47)).</p>	<p>contact applicant (s61B)</p> <p>Must dismiss complaint if subject matter has been or can be dealt with as a review by FOIC or the Tribunal (s61B)</p> <p>FOIC must give written reasons if complaint dismissed (s61B)</p> <p>Complaints investigation, agencies must cooperate with FOIC, must be dealt with in private (s61D-F)</p> <p>FOIC to conduct preliminary enquiries and consult with parties (s61G)</p> <p>FOIC must take reasonable steps to resolve informally (s61G)</p> <p>Complaint to be conciliated if cannot be resolved (s61H)</p> <p>Procedures if conciliation unsuccessful (s61I)</p> <p>FOIC may ask agency or Minister to produce documents (s61I)</p>	<p>external review applications.</p>

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				Tribunal (s112A(5)) and prepare a written report within 60 days of the referral (s112B)				FOIC power to compel production of documents requested under s61I (s61J) FOIC may make recommendations to agency or Minister re complaint, if appropriate (s61L)	
REGULATORY POWERS AND DELEGATION	Under s25(1) of the AIC Act, the IC may delegate, in writing, his or her functions or powers to a member of staff of the Office of the Australian Information Commissioner other than: <ul style="list-style-type: none"> preparing the Annual Report issuing Guidelines referring a question of law to the Federal Court under s55H of the FOI Act correcting errors in an IC review decision under s55Q implementing notices and reports under ss89 and 89A of the FOI Act 	Under s 64(2) of the Act, the Ombudsman may delegate their powers and functions to a person mentioned in s 32 of the <i>Ombudsman Act 1989</i> (ACT).	IC may delegate any function to staff or persons authorised through regs (s13 GIIC) Monitor, audit, report (s17) Education & advice (s17) Issue statutory guidelines and other publications (ss17, 22) Review agency decisions (s17) Report and recommend to Minister proposals for legislative and administrative changes (s17)	Commissioner may delegate powers and functions under the Act but must not do so without the approval of the Minister (s89) May require a PSO to answer a question, produce a record, or other thing (s87(e)). Commissioner has the power to compel evidence (s110A) Commissioner can refer application back to PSO and require a further review of its internal review decision (s103(2))	IC may delegate to a member of staff of OIC all or any of the commissioner's powers (s145) Monitor, audit and report (s131) General Power to do all things necessary in connection with functions under an Act (s125) Training, information, assistance and guidance (s128) Comment on legislative and administrative changes (s128) Review decisions of agencies and Ministers (s130)	Ombudsman may delegate powers under section 9 of the <i>Ombudsman Act 1972</i> .	Ombudsman may delegate powers pursuant to s10 of the Ombudsman Act.	FOIC may delegate to staff or persons engaged under s6J of FOIA, any functions and powers, except - power to make decision on review; power to make recommendation re complaint; power to prepare reports required under Pt VII of FOIA	Commissioner may, in writing, delegate to a member of staff the performance of any of the Commissioner's functions, except: the powers to: <ul style="list-style-type: none"> require the production of the disputed documents make a decision in relation to an agency's decision review exemption certificates delegate (ss75, 76, 77 & 79). Governor may appoint an Acting Commissioner, where the Commissioner is on leave or unable to perform the functions of the office (s59).

	<ul style="list-style-type: none"> • making a vexatious applicant declaration under s89K of FOI Act. <p>In addition, certain functions may only be delegated to an OAIC staff member who is an SES employee:</p> <ul style="list-style-type: none"> • making an IC review decision under s55K of the FOI Act • exercising discretion not to investigate a complaint under s73 of the FOI Act • notifying on completion of an investigation under s86 of the FOI Act. 								
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OFFENCE PROVISIONS AND PROTECTIONS	<p><u>Offences:</u></p> <p>Contravention of s 55R obligation to produce information and documents. 6 months imprisonment (s 55R(5) FOI Act)</p> <p>Contravention of s 55W obligation to appear before the Information Commissioner, 6 months' imprisonment (s 55W(3) FOI Act)</p> <p>Contravention of s 55X answering truthfully under oath or affirmation. 6 months</p>	<p>Knowingly making a decision contrary to the Act (s 89 - 100 penalty units).</p> <p>Intentionally giving direction to someone else who is required to exercise a function of the Act, contrary to the Act (s 90 -100 penalty units).</p> <p>Failing to identify information (s 92 – 100 penalty units).</p>	<p>Unlawful access (s119)</p> <p>Concealing or destroying (s120)</p> <p>Protection breach of confidence, defamation (s113) criminal action (s114), personal liability (s115)</p> <p>Obstruct; hinder; resist; make false statements; mislead (s43(2) GIC)</p> <p>Immunity of IC and others (s42;45 GIC)</p> <p>No powers to bring offence proceedings (s28(6) GIC)</p>	<p>A person must not conceal or dispose of govt info to prevent access or correction</p> <p>Person must:</p> <ul style="list-style-type: none"> not breach confidentiality provisions of s148; not knowingly provide false or misleading info; <p>not without reasonable excuse obstruct, hinder or fail to comply with Commissioner.</p>	<p>Unlawful access to document (s176)</p> <p>Disclosure or taking advantage of information (s179)</p> <p>Protection defamation or breach of confidence (access s170 and publication s171 RTI Act); (s171); criminal (access to document s172 and publication s173); personal liability (s174)</p> <p>False or misleading information (s177)</p>	<p>Protection against criminal actions with respect to giving access to a document (if person by whom determination is made honestly believes that the Act permits or requires the determination to be made) (s51)</p> <p>Protection in respect of actions for defamation or breach of confidence in certain cases (s50).</p> <p>Immunity from liability for Ombudsman or staff for any act or</p>	<p>A person must not deliberately obstruct or unduly influence a principal officer, a Minister, a delegated officer or the Ombudsman in the exercise of the power to make decisions (s50(1)).</p> <p>A person must not deliberately fail to disclose the subject of an application where that person knows the information exists (s50(2)).</p> <p>Principal Officers, Ministers and the</p>	<p>FOIC must ensure only specified person has access to docs produced in review or complaint.</p> <p>Criminal offence to intentionally or recklessly disclose to non-specified person other than Agency who produced the docs.</p> <p>Penalty: 240 penalty units or 2 years prison or both.</p> <p>No defamation or breach of confidence for</p>	<p>It is an offence for a person to gain access to a document containing personal or business information about another person by deceit (s109).</p> <p>It is an offence for a person to conceal, destroy or dispose of a document to prevent access to it (s110).</p> <p>Officers of an agency are protected from defamation, criminal liability and personal liability if they act</p>

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	<p>imprisonment (s 55X(3) FOI Act)</p> <p>Failure to comply with a notice issued under s 79 by the Information Commissioner. 6 months imprisonment (s 79(5) FOI Act)</p> <p>Failure to comply with a notice issued under s 82 by the Information Commissioner, 6 months' imprisonment (s 82(3) FOI Act)</p> <p>Contravention of s 83 answering truthfully under oath or affirmation (s 83(3) FOI Act)</p> <p><u>Protections:</u></p> <p>Claim of legal professional privilege to documents or information produced for the purpose of an IC review (s 55Y FOI Act)</p> <p>Protection for persons from liability in the IC review process (s 55Z FOI Act)</p> <p>Protection from liability relating to documents produced for an investigation (s 85 FOI Act)</p>	<p>Improperly influencing the exercise of a function under the Act (s 93 - 100 penalty units).</p> <p>Gaining unlawful access to government information through deceit or misleading a person exercising a function under the Act (s 94 -100 penalty units).</p>	<p>Acting unlawfully (s116)</p> <p>Directing unlawful action (s117)</p> <p>Improperly influencing (s118)</p> <p>Falsely represent IC or staff; cause inflict or procure violence, punishment, damage, disadvantage; dismiss any employee, prejudice any employee's employment (s43 GIIC)</p>		<p>Direction to employee to act in particular way (s175)</p> <p>Failure to produce documents or attend proceedings (s178)</p>	<p>omission in good faith (s30(1) <i>Ombudsman Act 1972</i>).</p> <p>It is an offence to obstruct the Ombudsman in the performance of investigative powers under the Ombudsman Act (s 24 <i>Ombudsman Act 1972</i>).</p> <p>If Ombudsman or SACAT forms opinion that there is evidence that a person, being an officer of an agency, has been guilty of a breach of duty or of misconduct in administration of the act, may bring evidence to the notice of appropriate person with a view to disciplinary action being taken (s39(17), s42).</p> <p>A person acting honestly and, in the exercise, or purported exercise of functions under the Act incurs no civil or criminal liability in consequence of doing so (s52)</p>	<p>Crown are protected against actions for defamation or breach of confidence where information has been provided as required or permitted by the Act or where the officer or Minister authorised its release in the belief that it was required to be provided (s51).</p> <p>Where information has been provided in the circumstances referred to above, no person concerned in providing the information, is guilty of a criminal offence by reason only of the provision of the information or authorising that provision (s52).</p>	<p>giving access to document (s62)</p> <p>No personal liability for making complaint (s63B)</p> <p>No criminal offence - giving or authorizing access (s63)</p> <p>FOIC and others not compellable to produce documents (s63A)</p> <p>No penalty or offence provisions for agencies.</p>	<p>in good faith (ss104-107).</p> <p>Commissioner and his or her staff are protected from personal liability for an act done or omitted to be done in good faith (s80).</p> <p>It is an offence for the Commissioner or his or her staff to disclose confidential information or take advantage of it for their own benefit (s82).</p> <p>It is an offence for an agency to fail to produce information or documents, attend before the Commissioner or attend conciliation (s83).</p>

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	<p>Protection from civil action in investigations under s 70 (s 89E FOI Act)</p> <p>General protection against civil liability (s 90 FOI Act)</p> <p>Protection against civil liability in particular situations (s 91 FOI Act)</p> <p>Protection against criminal liability (s 92 FOI Act)</p>								
REVIEW/APPEAL AVENUE INCLUDING FEES AND CHARGES	<p>Application for Information Commissioner review or complaints: free</p> <p>EXTERNAL REVIEW:</p> <p>Discretion to not undertake a review or not to continue a review if satisfied the decision should be considered by the AAT (s 54W(b) FOI Act)</p> <p>Commissioner can refer questions of law to → Federal Court of Australia (s 55H FOI Act)</p> <p>Apply to Federal Court for order directing agency or Minister compliance with IC review</p>	<p>Initial access application to an agency or Minister: costs may apply, depending on the amount/pages of information requested, with the first 50 pages being free of charge (s 104) (no fee for seeking own personal information). Can apply for fee waiver (s 107).</p> <p>External review to Ombudsman: no cost.</p>	<p>GIPA formal access application (\$30) (s41) with provision for waiver (s127)</p> <p>Internal (agency) review (\$40) – no processing charges (s87)</p> <p>External review by IC: free</p> <p>External review by NCAT: fee prescribed under the <i>Civil and Administrative Tribunal Regulation 2013</i>.</p> <p>No review by IC if decision is or has been the subject of NCAT review (s98)</p> <p>Referral of systemic issues to IC from NCAT (s111)</p>	<p>FOI application to agency-\$30</p> <p>EXTERNAL REVIEW:</p> <p>IC: free</p> <p>NTCAT: fee</p> <p>APPEAL:</p> <p>Appeal to Supreme Court on Commissioner or NTCAT decisions by a person aggrieved on <i>questions of law</i> only (s129)</p>	<p>Application (\$46.40);</p> <p>Internal agency review (no fee)</p> <p>EXTERNAL REVIEW:</p> <p>IC: free</p> <p>QCAT – applicant appeal question of law (no fee) (s119)</p> <p><i>RTI Act</i> Processing charge (more than 5 hours - \$7.20 for each 15 minutes; no processing charge under RTI Act if document contains personal information)</p> <p>Access charges may apply under RTI Act</p> <p>IC referral question of law</p>	<p>FOI request application fee currently \$34.25</p> <p>Processing charges may also be imposed by agency</p> <p>EXTERNAL REVIEW (no fee).</p> <p>Prescribed fees and charges (s53(1))</p> <p>Waiver of fees (s53(2)(a))</p> <p>Member of Parliament entitlements-access without charge unless work generated by application more than \$1000 (s53(2)(b)).</p> <p>APPEAL:</p> <p>Agency → SACAT on a</p>	<p>Fee on application for assessed disclosure of information - \$38.25. There is provision for waiver in certain circumstances.</p> <p>No fee on applications for external review.</p> <p>There is no right of appeal under the Act, only a right to appeal to the Supreme Court on a question of law.</p>	<p>FOI request application fee as at 1/7/15 \$27.90 (s17)</p> <p>EXTERNAL REVIEW:</p> <p>FOIC: free</p> <p>TRIBUNAL (VCAT): FEE except if an application from 'deemed refusal' by Commissioner (s49J(2) or applicant seeking own documents. From 1/7/2016 no fee</p> <p>FOIC dismisses review as more appropriate by Tribunal</p> <p>Application to Supreme Court on question of FOIC's jurisdiction to</p>	<p>Agency fees and charges</p> <p>\$30 fee for access application (no fee if only seeking personal information about the access applicant).</p> <p>Agencies can impose charges for dealing with an access application for non-personal information (s16).</p> <p>Charges must be calculated by an agency in accordance with the <i>Freedom of Information Regulations 1993</i> (WA).</p> <p>Internal review</p> <p>An aggrieved person may seek internal review of an agency's</p>

Compendium of information access laws across Australian states and territories prepared by the Association of Information Access Commissioners
Current as at 23 October 2023

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
	<p>decision – application made by review applicant or Commissioner (s 55P FOI Act)</p> <p>Appeal questions of law to Federal Court by review party from a decision of the Information Commissioner on an IC review (s 56 FOI Act)</p> <p>Application to the AAT – review of an Information Commissioner’s vexatious applicant declaration under s 89K (s 89N FOI Act)</p>	<p>Ombudsman review decisions are reviewable by the ACT Civil and Administrative Tribunal (s 84): lodgment fee (\$384 for person), and further costs may apply (see also s 87).</p> <p>Application to ACT Supreme Court: costs apply as per schedule of fees for the Supreme Court (see also s 88).</p>			<p>QCAT (no fee) (s118)</p> <p>Application to QCAT – review of decision about financial hardship (no fee) (s120)</p> <p>Application to QCAT – review of vexatious applicant declaration (no fee) (s121)</p> <p>Appeal by applicant of QCAT decision (\$315.70, s119)</p>	<p>question of law (s40(1)).</p> <p>Person → SACAT (s40(2)).</p> <p>A person who is aggrieved by a determination of an agency following internal review (or where decision not eligible for internal review) may appeal directly to District Court (s40(2)).</p> <p>Ombudsman cannot be a party to appeal proceedings (s40(6)).</p> <p>SACAT must order agency pays other party’s reasonable costs (s40(8)(a)).</p> <p>SACAT may order that a party pay costs of agency, only if satisfied that the party acted unreasonably, frivolously or vexatiously (s40(8)(b)).</p> <p>Proceedings in SACAT are to be commenced within 30 days after notice of the determination to which the</p>		<p>issue production notice (s61K)</p> <p>Application fee can be waived or reduced if it would cause hardship.</p> <p>Access charges can be charged for searching for and providing access to documents as per FOI (Access Charges) Regns.</p> <p>Access charges can be waived or reduced.</p> <p>No charge for person who is impecunious seeking own personal info.</p> <p>No charge for searching for MP’s.</p> <p>Agency must seek a deposit if charges are more than \$50. Up to \$100 deposit is \$25. Over \$100 deposit is 50% of the charge.</p> <p>The 45 days for processing the request starts when the deposit is paid.</p> <p>Documents do not have to be provided until</p>	<p>decision (s39) – no fee or charges.</p> <p>External review</p> <p>An aggrieved person may seek external review of an agency’s internal review decision or decision of the agency’s principal officer (s65) – no fees or charges.</p> <p>Commissioner has discretion to accept an external review application without internal review having been applied for or completed (s66).</p> <p>Commissioner can make a costs order on external review in exceptional cases (s84).</p> <p>Review by the Supreme Court</p> <p>Parties can appeal to the Supreme Court of WA on any question of law arising out of the Commissioner’s decision on an external review relating to an access application (s85).</p> <p>Commissioner may refer to the Supreme Court any question of</p>

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
						<p>proceedings relate (s40(3)).</p> <p>External review and SACAT proceedings are not available to an agency or person simultaneously (s40(3)).</p> <p>SACAT application fee as at 1 July 2016 \$71.60.</p>		<p>access charges are paid.</p> <p>Applicant can appeal a charge to VCAT but FOIC has to first certify that the matter is sufficiently important for VCAT to consider per s.50(1)(g).</p>	<p>law that arises in the course of dealing with a application for external review (s78).</p> <p>Supreme Court may make an order or decision relating to costs as it thinks fit.</p> <p>If an agency appeals a decision, it bears its own costs.</p> <p>Commissioner is not liable for any costs, except where the Commissioner has referred a question of law to the Supreme Court (s89).</p>

Other notes:

- In all jurisdictions apart from Victoria and the ACT, the FOI Acts provide for decisions for which internal review may be sought:
 - Commonwealth – Part IV
 - ACT - the review powers of the Ombudsman replace the internal review process
 - NT – s 38
 - NSW – s 82
 - QLD – s 80
 - SA – s 38
 - TAS – s 43
 - WA – s 39 and s 54
 - Victoria – the review powers of the FOI Commissioner replace the internal review process