



AFP

Better Practice Guide for Internal Stakeholders on Freedom of Information Requests

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Version Control

This section of the document must be removed before use and circulation.

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A. Introduction

This Better Practice Guide (**BPG**) has been developed to support the National Guideline on Freedom of Information releases and provides guidance for AFP appointees on key processes to be followed when receiving a request from the FOI Team regarding documents or information. This introduction will provide an overview of the FOI process and the requirements of Internal Stakeholders in responding to FOI requests.

How to use this better practice guide

This BPG has been designed to answer frequently asked questions and assist Internal Stakeholders to complete the FOI Request Tracker (**RT**) issued by the FOI Team. This BPG should be read in conjunction with the AFP FOI National Guideline, FOI Act and Office of the Australian Information Commissioner (**OAIC**) Freedom of Information Guidelines.

What is a Freedom of Information Request?

An FOI request is a request for access to a document of a Commonwealth agency made by an Applicant under the FOI Act. An FOI request can be made by any person, organisation or a representative. An Applicant does not need to be an Australian citizen or be in Australia to make a request. An applicant does not need to identify themselves to request documents, unless they are requesting their own personal information. Furthermore, an Applicant is not required to explain why they are submitting an FOI request.

The AFP is an 'agency' for the purposes of the FOI Act and an Applicant can make an FOI request to the AFP for a copy of any document, data or information that is held by the AFP, whether the document relates to the Applicant or not.

What is a document request from the FOI Team?

Where the FOI Team has reviewed an FOI request and made a preliminary assessment that an Internal Stakeholder may hold documents or information within the scope of the FOI Request, the FOI Team will send an email seeking documents which may be responsive to the FOI request, to the Internal Stakeholder.¹

Responsibilities

AFP appointees

All AFP appointees have an obligation to assist the FOI Team to comply with the AFP's obligations under the FOI Act. AFP appointees who receive an FOI request, are required to promptly action any response required by the FOI Team and respond to the FOI mailbox (foi@afp.gov.au).

If an AFP appointee is unsure or otherwise has concerns regarding an FOI request, please seek guidance from the FOI Team in accordance with this guide as soon as practicable.

¹ The scope of an FOI request means its parameters. For example, if an FOI Request is seeking "all body worn camera footage associated with Case Summary XYZABC", the body worn camera footage would be within scope of the FOI request, but the Case Summary would be out of scope of the FOI Request.

FOI Team

The FOI Team reviews all requests submitted to the AFP to ensure each FOI request includes the necessary information to enable an FOI Officer to clearly identify the documents being sought.

Before a request is deemed valid, the Applicant's FOI request must:

- be in writing;
- state that the request is an application for the purposes of the FOI Act;
- provide such information concerning the documents as is reasonably necessary to enable the AFP to identify the documents; this is referred to as 'the scope' of the request; and
- provide an address for reply.

The FOI Team will contact the Applicant to resolve scope and clarity issues with requests, before assigning an FOI Officer and allocating to an Internal Stakeholder for action. FOI Officers undertake consultation, where necessary, with third parties and state, territory and commonwealth agencies that may be affected by the release of documents subject to a FOI request.

The FOI Team notifies the executive when a Notifiable FOI request is received and when a decision will be issued in respect of a Notifiable FOI request. These notifications are primarily for requests that are sensitive, complex or are of significant public interest.

Decision Makers

The AFP's Decision Makers are appointed pursuant to [the Instrument of Authorisation under the FOI Act \(DAC076 Instrument\)](#). The DAC076 Instrument must be read in conjunction with [Freedom of Information Instrument Authorisation Handbook](#).²

A Decision Maker must be satisfied that all reasonable and satisfactory searches have been carried out before making a Decision. This requires all Internal Stakeholders to articulate the completed searches undertaken by completing the RT Part 2.

Line area

The FOI Team will nominate an FOI Officer to process an FOI request, who will liaise with the line area to seek the necessary information to fulfil the Applicant's request.

To comply with the FOI Act, the Internal Stakeholder must conduct a thorough search for all relevant documents in the possession of the AFP and provide them to the FOI Officer. The Internal Stakeholder must conduct searches and complete the mandatory sections of the RT Part 2 and obtain any necessary clearances. The Internal Stakeholder must meet the timeframes set by the FOI Officer. If there are going to be issues with meeting the timeframes, please contact the FOI Office as soon as possible.

If a request spans multiple Internal Stakeholders, the FOI Officer will coordinate the search and collection of documents from other Internal Stakeholders.

Additionally, the FOI Act allows for the AFP to transfer requests in whole or part to other Commonwealth agencies or minister should the request substantially relate to their functions. However, this is dependent on Commonwealth agency or minister's agreement. This also allows for other Commonwealth agencies or ministers to transfer FOI request to the AFP. While this is generally done by the FOI Team in the first instance, should you consider it more appropriate to transfer an FOI request to a Commonwealth agency or minister, you should advise the FOI Team as soon as possible.

² Listed under Chief Counsel > General Counsel Corporate.

External Consults

FOI requests may involve third parties (individuals, business, state and territory agencies and international government agencies) or other Commonwealth agencies, which requires the FOI Team to consult with that agency, business or individual before making a decision on the release of those documents. Should the Internal Stakeholder believe that external consultation is necessary for an FOI request, please advise the FOI Team as soon as possible.

What is a clearance request from the FOI team?

If documents for an FOI request are identified and the FOI team proposes to release these documents to the Applicant, the FOI Team will send a request for clearance to you or your line area. The request for clearance will contain the document and proposed mark-ups for comment and review by Internal Stakeholders.

Internal Stakeholders will be notified as to the level of clearance required.

What work is required as an Internal Stakeholder for an FOI request?

When responding to a request for documents responsive to an FOI request, Internal Stakeholders should ensure the response to the FOI Team includes:

- all relevant documents provided in an unredacted form accessible to the FOI Team
- a fully completed RT Part 2 (even if nil documents)
- advising on any sensitives in relation to the FOI request (including if there is an ongoing investigation or the matter is before the courts)
- advising if there are any other line areas the FOI Team should engage with for documents
- advising if access to the documents requested can be facilitated through alternative means (administrative access), and
- advising of any other information that may be relevant to the FOI Team in processing the FOI request.

When responding to a clearance request, Internal Stakeholders are requested to include the following:

- if documents are to be released, articulate approval /clearance for release and identify the approver
- If some or all the documents are not to be released, identify with precision the material to which the area objects to releasing, and articulate the grounds for each objection
- advise if there are any other line areas the FOI Team should engage with for clearance of the documents, and
- advise of any other information that may be relevant to the FOI Team in finalising the FOI request.

More information about how to respond appropriately to document and clearance requests from the FOI Team is detailed in Part C and D of the BPG.

The FOI team may also engage with Internal Stakeholder areas for more general inquiries and reviews of decisions which is detailed in Part F of the BPG.

B. FOI Request Tracker

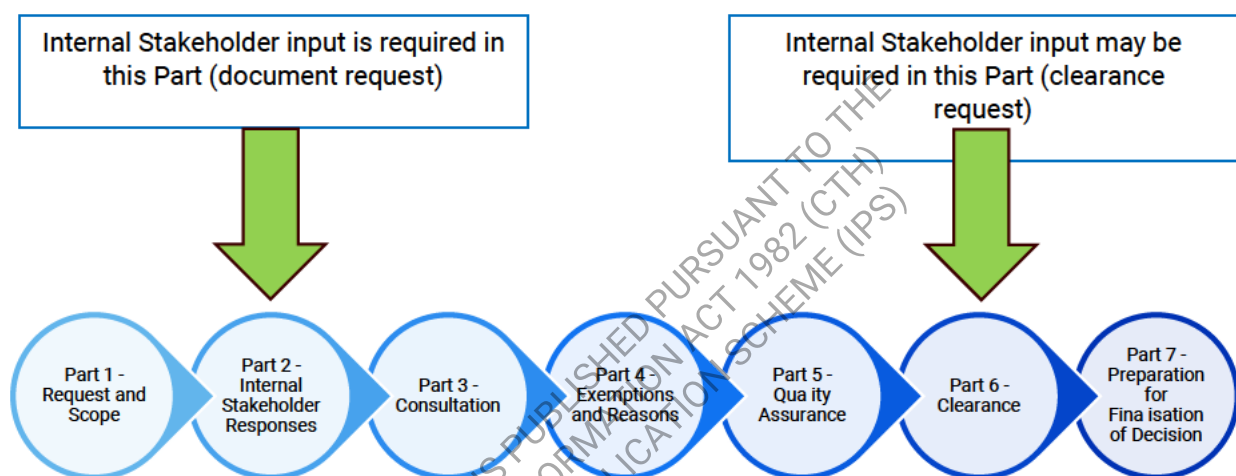
Overview of the FOI Request Tracker (RT)

The RT is a multi-part document which records all steps taken over the life of an FOI request. It assists the FOI Officer and the relevant Internal Stakeholder to keep track of the FOI request as it progresses to a Decision.

FOI requests require robust record keeping at all stages, and there are important reasons for this:

- any Decision made by the AFP concerning an FOI request can be reviewed, whether it be internally by the AFP or externally by the OAIC, tribunals or the courts; and
- the AFP is under statutory obligations to maintain adequate records; and
- it is best practice to promote good record keeping; and
- enables transparency in AFP decision making.

The below diagram outlines the mandatory parts required by the RT.



Summary of the FOI Request Tracker form

Part 1 – Request and Scope

To be completed by: FOI Officer

- An Applicant makes an FOI request, which is then assessed by the FOI Team and assigned to an FOI Officer.
- The scope, request, revised request (if applicable), initial applicant consents, authorities, validity and searches conducted by the FOI Team are all captured by the FOI Officer in Part 1.
- The FOI Officer may request an Applicant narrow or confirm the scope of the FOI request for clarity and to ensure the correct searches are performed.
- The FOI Officer will perform initial searches on various AFP systems and will utilise these results to ascertain the correct Internal Stakeholder required to complete Part 2.

Part 2 – Internal Stakeholder Response

To be completed by: Internal Stakeholder

- This part is divided into three mandatory sections which must be completed by the Internal Stakeholder.
- The Internal Stakeholder must capture the outcome of searches, information about the nature of the documents (and any sensitivities) located in the searches and ensure the documents returned to the FOI Officer are in the correct format. This must always be completed, even if nil documents are identified.

Part 3 – Consultation

To be completed by: FOI Officer

- Consultation is completed by the FOI Officer, following receipt of Part 2 and assessment by the FOI Officer. Where an FOI Officer locates material or information that originated in another Commonwealth or State agency, foreign jurisdiction, individual or business, the FOI Officer may be required to consult with those parties.
- This part captures the results of those consultations, including responses from the relevant parties on whether documents can be released (whether in part or in full).

Part 4 – Exemptions and Reasons

To be completed by: FOI Officer

- The FOI Officer will consider any Exemptions that may be applied when making the Decision on whether to refuse access, or to release documents (whether in part or in full). Each refusal or partial release must be supported with the relevant legislative exemption from the FOI Act.
- This part captures the reasoning behind the FOI Officer's decisions, and forms part of the Decision.

Part 5 – Quality Assurance

To be completed by: FOI Team

- An impartial member of the FOI Team may complete Quality Assurance of the completion of Part 1 to 4, Exemptions applied (if any) and any reasons for decisions made at this stage.
- The completion of this part ensures that another member of the FOI Team has reviewed and agrees with the direction of the FOI Officer's decision making which ensures robust and defensible decision making consistent with the objectives of the FOI Act.

Part 6 – Clearance

To be completed by: Internal Stakeholder

- Clearance is completed by the Internal Stakeholder once quality assurance has been completed. This is a compulsory step in the FOI process as the Internal Stakeholder is required to consider the Exemptions and documents before disclosure is made to the Applicant.
- This part will capture comments made by the Internal Stakeholder, and when the Internal Stakeholder gives approval for the documents to be released.

Part 7 – Preparation for Finalisation of Decision

To be completed by: FOI Officer

- This is the final part in processing the Request. The FOI Officer will ensure that all parts of the RT are completed and that the AFP's records adequately reflect the AFP's undertakings with respect to the Request.
- Preparation for Finalisation of Decision captures all final approvals before making and issuing a Decision.

Internal Stakeholder response to the RT

The AFP receives many FOI requests each month. The FOI Act allows for 30 calendar days for the AFP to complete the FOI requests from the date of receipt, which means the AFP needs to provide a decision to an Applicant within 30 calendar days of receiving the FOI request.

In certain circumstances, the FOI Team may be able to seek an extension of time to process the request. This may be possible in a variety of ways under FOI Act, including by agreement from the Applicant (s15AA), consultations with non-Commonwealth third parties (s15(6) and s15(8)) and extensions granted by the OAIC (s15AB and s15AC).

While the FOI Team will endeavour to extend the processing time to ensure sufficient time is available to properly complete request, it is expected that Internal Stakeholders comply with relevant timeframes provided by the FOI Team. This is to ensure the AFP complies with its statutory obligations under the FOI Act. If you expect there will be delays in processing the request for documents, please advise the FOI Team as soon as possible, especially if the request requires clarification or is voluminous.

Accordingly, the RT has been designed to streamline the AFP's processes, and to reduce the amount of "back and forth" between Internal Stakeholders and reduce processing times.

Timely responses from Internal Stakeholders to the RT are essential to:

- identifying if the RT should be directed to a different/additional AFP member or command
- identifying if the subject matter of the FOI request is more closely aligned with the functions of another Commonwealth or State agency and therefore requires a transfer under s 16 of the FOI Act
- the AFP adhering to statutory timeframes
- early identification of significant issues or sensitive material, and
- timely, accurate and robust decisions that withstand review or complaints.

Parts of the RT you must complete

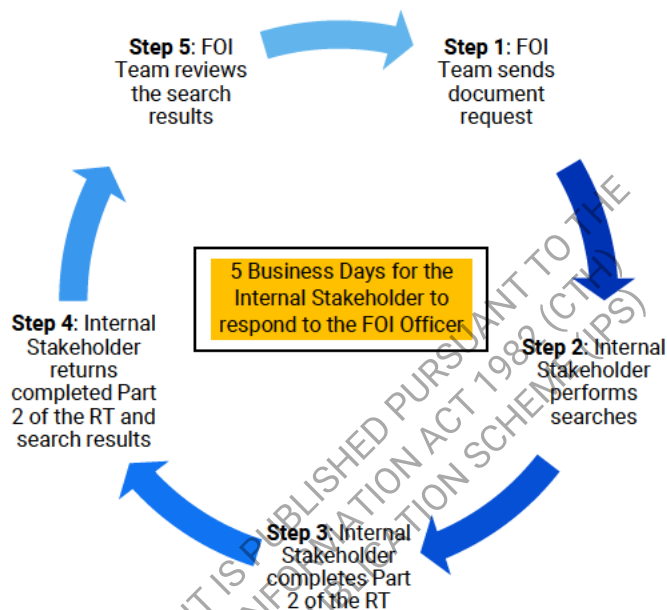
Internal Stakeholders are required to complete Part 2 of the RT. Parts of this BPG relating to *Initial document request for Internal Stakeholder Response (Part 2)* and *Clearance* provide an overview and explanation of Internal Stakeholder actions required in this process.

Please consider the Frequently Asked Questions concerning the process behind RT Part 2, and other parts of the FOI process. If you have any questions or require further information about the process, please contact the FOI Officer who sent you the RT.

C. Initial document request for Internal Stakeholder Response (Part 2)

A snapshot of the RT Part 2 process is set out in the infographic below. If you are unsure how to complete RT Part 2, please consult the Frequently Asked Questions in this BPG about this step before liaising with the FOI Officer.

1. Overview – Internal Stakeholder Response



2. Steps to Complete the Internal Stakeholder Response

Step 1 – the FOI Team sends document request

Internal Stakeholders will receive an email from the FOI Officer who is overseeing the FOI request.

The email will contain:

- the scope of the FOI request
- the RT Part 2 – Internal Stakeholder Response for your completion
- a link to BPG
- a notice if request is a Notifiable request, and
- A return date for providing documents responsive to the request and the completed RT Part 2.

Step 2 – Internal Stakeholder performs searches

As the Internal Stakeholder, you are required to undertake the necessary searches of the relevant AFP systems to locate and compile all documents that fall within the scope of the FOI Request. If you do not believe this Request should be assigned to you, please liaise with the FOI Officer immediately, or consult the Frequently Asked Questions.

If an Internal Stakeholder requires additional time to complete searches, please contact the FOI Officer as soon as possible.

Step 3 – Internal Stakeholder completes RT Part 2

As the Internal Stakeholder, you will complete all sections of RT Part 2:

- Section A requires Internal Stakeholders to record:
 - whether searches of AFP systems as undertaken by selecting from a drop down menu
 - comments related to the searches and search terms, for example: the Applicant's details or text field searches
 - where relevant, an explanation as to why searches of particular AFP system(s) were **not** undertaken, and
 - the amount of time it took for searches to be conducted.
- Section B requires Internal Stakeholders to complete a questionnaire regarding searches.
- Section C requires Internal Stakeholders to complete a mandatory checklist. This checklist will assist Internal Stakeholders to return the material correctly and reduce the need for back and forth between you and the FOI Officer.

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INFORMATION PUBLICATION SCHEME (IPS)

Step 4 – Internal Stakeholder returns completed RT Part 2 and documents to the FOI Officer

You will then return the completed RT Part 2 together with any and all documents compiled as a result of your search to the FOI Officer by email, or another mechanism agreed by the FOI Officer. The documents returned will be in the format requested by the FOI Officer, which will usually be PDFs. If there are nil documents identified, you must advise the FOI Officer and still return a completed RT Part 2.

You must ensure **all** reasonable searches have been conducted before you return RT PT 2 and documents to the FOI Officer. What constitutes reasonable searches will be contingent on the scope of the FOI request and any relevant circumstances. Should you be unsure if reasonable searches have been conducted, please consult the BPG or reach out to the FOI Officer for further guidance. Additionally, you may wish to consider the OAIcs [Reasonable Steps Checklist](#) which identifies relevant steps for conducting reasonable searches for documents.

Step 5 – FOI Officer reviews the Internal Stakeholders response

The FOI Officer will review the completed Part 2, and the documents provided by the Internal Stakeholder. If you have partially completed sections of Part 2, or there is incomplete information, the FOI Officer will return Part 2 to you for further consideration and completion. The FOI Officer may contact the Internal Stakeholder if they have further questions about the search results provided or responses in Part 2.

3. Complex and/or voluminous FOI request

Some FOI requests will not follow this standard process because they require clarification and/or are voluminous (within the meaning of the FOI Act). An FOI request may require clarification on one or more aspects of the request to enable the AFP to undertake searches.

A voluminous FOI requests is one which captures such a significant volume of documents that the fulfilment of the FOI request would be an unreasonable diversion of AFP resources. This is a relatively high bar and the OAIc provides guidance on the threshold for voluminous requests.

If you consider the FOI request requires clarification or is voluminous, please advise the FOI Officer as soon as possible and return a completed RT Part 2 which details the volume of this request. Additionally, please provide guidance to the FOI Officer on the aspects of the request that require clarification, or on how the scope of the request can potentially be modified to make the request more manageable.

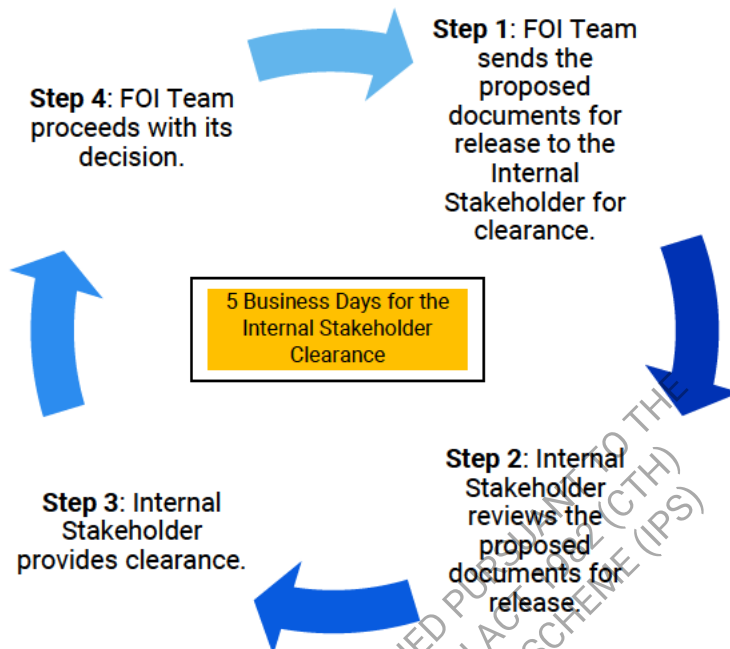
The FOI Act allows for Decision Makers to refuse access to documents if processing the FOI request would substantially and unreasonably divert the resources of the AFP from its other operations. If this threshold is likely to be reached, the FOI Officer will engage with the Applicant in a consultation process to see if they agree to revise the scope of the FOI request to make it more manageable.

In this consultation process, the FOI Team may request a sample of the relevant documents from the Internal Stakeholder. This sample of documents should be representative of the range of documents that, when assessed, allow for an extrapolation of the total processing time of the FOI request if it were to be processed in its current state. This sample will be used in the consultation process and, if applicable, in any decision to refuse access to the documents should the scope of the FOI request remain the same or similar and still require a substantial and unreasonable diversion of AFP resources.

D. Clearance

A snapshot of the clearance process is set out in the infographic below. If you are unsure about the clearance process, please consult the Frequently Asked Questions within this BPG about this step before liaising with the FOI Officer.

1. Overview – Clearance



2. Steps to Complete Clearance

Step 1 – The FOI Team emails the Internal Stakeholder seeking clearance of documents

Internal Stakeholders will receive an email from the FOI Officer who is overseeing the FOI request.

The email will contain:

- the proposed documents to be released to the Applicant, with the proposed Exemptions;
- any comments related to the documents or Exemptions; and
- a return date, which will be **five business days** from the date the FOI Officer sends you the email.

Step 2 – Internal Stakeholder reviews the proposed documents for release

Internal Stakeholders will review the documents and proposed Exemptions. The email from the FOI Team will advise the minimum level of delegation required to clear the documents for release and Exemptions. If the FOI team does not state that the documents must be reviewed by an (identified level of) senior appointee in your chain of command, it is the Internal Stakeholder's responsibility to ensure the proposed release of documents and Exemptions is cleared at the appropriate level.

In reviewing the documents, it should be kept in mind that once a document is released under FOI, there are no restrictions imposed by the FOI Act on how these documents may be used. Where required in accordance with the FOI Act, the FOI Team upload the documents to the AFP's disclosure log on the AFP website for public access. Accordingly, Internal Stakeholders should give due consideration to any sensitivities concerning release of the documents and advise the FOI Team accordingly.

Step 3: Internal Stakeholder– Clearance of the RT

The Internal Stakeholder who reviewed the documents and proposed redactions will facilitate clearance to the supervisor or delegate responsible for providing clearance within their chain of command.

The person providing clearance will need to:

- provide their full name
- provide any comments or questions regarding the documents and proposed Exemptions and redactions
- give written approval and
- provide the date of clearance.

If additional time is needed to obtain clearance, please contact the FOI Officer as soon as possible to discuss a new timeframe.

Step 4: FOI Officer completes Part 6 – Clearance of the RT and proceeds to decision

Once the FOI Officer is in receipt of clearance from the Internal Stakeholder, the FOI Officer will complete Part 6 – Clearance of the RT. The FOI Officer will then move to make and finalise the Decision and provide any documents to the Applicant.

While the Internal Stakeholder provides clearance, the decision is made by the Decision Maker. Where the Decision Maker does not agree with the clearance provided, they will engage further with the Internal Stakeholder before finalising the Decision.

E. Finalising Request

Once clearance has been provided, the FOI Team will:

- make or finalise the Decision (including applying relevant Exemptions to the documents)
- ensure notifications are issued for any Notifiable FOI request
- send the Decision and documents to the Applicant via email (or ShareFile if the file size is too large to email); and
- if applicable, send the documents to the Digital Engagement team for uploading on the AFP's [Disclosure Log](#).

F. Requests for Information following an Internal Review (IR) or Information Commissioner (IC) Review request

An Applicant has the right to seek review of the AFP's Decision. This can occur either through an Internal Review (IR) by a new Decision Maker within the AFP, or an external review by the OAIC, an Information Commissioner (IC) Review. For further information on the nature of reviews, please see section 13 of the AFP FOI National Guideline.

As an Internal Stakeholder, your obligations continue when a Decision is subject to an IR and/or IC Review. Another FOI Officer, or AFP appointee who is authorised to prepare a review, will contact you for further information if further assistance is required.

You may be asked to provide:

- further information concerning your searches, for example, the AFP systems you searched, or the search terms you used
- whether additional documents can be located or if documents may have been omitted; and/or
- further information in relation to the application of exemptions and redactions.

Accordingly, it is important that RT Part 2 is fully completed and the necessary clearance has been provided.

If a Decision is the subject of an IR, the *Initial document request for Internal Stakeholder Response (Part 2)* must be completed again. Where a matter is subject to an IC Review, additional searches or further information may be required and the FOI Team will contact you, as required.

G. Frequently Asked Questions

1. Receiving document requests from the FOI Team

The document request I received from the FOI Team does not relate to me, my command or my unit. What do I do?

Please contact the FOI Officer who sent the RT as soon as possible.

If you have been sent RT and you know that it should be directed to another person, command or unit, please notify the FOI Officer immediately. In notifying the FOI Officer, please outline and explain why this FOI request does not sit within your area, and identify to the best of your knowledge the more appropriate or relevant person, area, team or command to action the FOI request.

The AFP is under a legal obligation to meet the statutory timeframes set out in the FOI Act and provide timely responses to applicants who make FOI requests. This necessitates advising the FOI Team if the documents do not relate to you or your line area as soon as possible, as it helps the AFP meet statutory timeframes and communicate appropriately with Applicants.

The RT I received from the FOI Team relates to me, but it is related to an old matter. I no longer work in that command/unit/team. What do I do?

If your name is on a Case Summary, Case Note or other document relevant to an FOI request, your obligation to perform searches related to the FOI request, is ongoing and you should undertake those searches.

If the case, investigation or matter has been transferred to another AFP member or command (or you no longer have access to the documents), please notify the FOI Officer immediately in Question 13, Section B, Part 2.

I am unsure what the FOI Team is asking for in this RT. What do I do?

Please contact the FOI Officer. The FOI Team will be able to answer Internal Stakeholder questions about the FOI request and/or the request for documents.

This matter looks it might be a Notifiable FOI Request. What do I do?

Internal Stakeholders will be notified in the request for documents email if a request is a Notifiable request. If a request is not marked Notifiable and the Internal Stakeholders is of the view the AFP Executive should be aware of the FOI request, please contact the FOI Team Leader as soon as possible.

The FOI Officer is required to notify the AFP Senior Executive, relevant SES members, Media, DCISC, Office of DC Crime, Office of DC National Security, CPO ACT and the Home Affairs Minister's Office of a Notifiable FOI request received by the AFP.

Can someone help me complete the RT?

Yes. Provided the RT captures the searches completed, someone else can assist to complete the RT on your behalf i.e. an executive assistant, or investigation assistant.

2. Performing searches

What searches do I need to conduct?

If the FOI Officer has sent an Internal Stakeholder an RT, the searches to be conducted will be set out in Section A, Part 2.

What is the RT?

The RT is a 'living document' that covers the life of an FOI request. It sets out the processes the FOI Officer needs to follow to ensure the FOI request is dealt with properly and in accordance with the FOI Act.

What does the term 'document' mean?

The term 'document' should be interpreted broadly. It can include, but is not limited to, material held in PROMIS, IMS or network drives, specialist databases or ICT platforms, emails, diary notes, Teams messages, body worn camera footage, audio, CCTV footage, notebook entries, text messages, whats app, signal and other encrypted coms applications. You are required to extract **all** relevant documents responsive to a request for documents and within the scope of the FOI request and send this to the FOI Officer with the completed RT.

How do I provide information about the searches?

Whether providing documents or a 'nil' response, please indicate in Section A, Part 2 which AFP systems were searched, and what searches were conducted. For example, the search terms used.

Some of the searches listed in the RT are not relevant. Can I just ignore those items?

If it is not necessary or relevant for Internal Stakeholders to search a certain system, please select 'No' from the dropdown menu in the 'Checked' column and select or articulate why the search is not necessary.

Why do I need to fill out the RT, can't I just send the FOI Officer an email with an outcome of my findings?

The RT allows AFP appointees to ensure they have conducted a thorough search of the AFP's holdings, and that this search is documented.

The RT allows the FOI Officer to prepare a decision and lessens the need for follow ups from the FOI Officer. The search parameters are included in the Applicant's decision letter to evidence the searches undertaken. Further, the RT allows the AFP to respond in a timely and complete way to any request for review of an FOI Decision, providing all relevant information to support the AFP's FOI Decision.

The AFP system I checked is not listed in Section A of the RT. What do I do?

There is an "Other" option as the final item in Section A, Part 2 where Internal Stakeholders can specify the AFP system used by the Internal Stakeholder which has been checked in response to the request. If more than one system is not listed that is used and been checked by the internal stakeholder, additional rows can be added to Section A, Part 2.

I have performed searches and some of the documents are in scope, but the documents originated with another agency. Do I include these documents?

Yes, Internal Stakeholders must include these documents. Please alert the FOI Officer to the interests of other agencies in Question 9, Section B, Part 2. Please specify the documents that originated with another agency.

I have performed searches and cannot locate any documents that are in scope. What do I do?

Please fill in Section A, Part 2 with information about the searches you have conducted. You can then provide a 'nil documents' response in Section B, Part 2.

Even where the outcome of the searches in response to an FOI request is 'nil documents', the FOI Team must notify the Applicant and must set out the searches undertaken by the AFP. The information on Internal Stakeholder searches will enable the FOI Team to provide this information to the Applicant in the Decision.

I think that the search may require an ICT email audit. What do I do?

An ICT email audit may be required where:

- a person has left the AFP, or
- a person is on leave or absent, or
- the timeline of the request is large, or
- a number of AFP appointees are named,

but their email account may hold documents that are relevant to the FOI request.

If the Internal Stakeholder suspects the search may require an ICT email audit, please advise the FOI Officer as soon as possible.

The searches I have done have resulted in a lot of documents. What do I do?

If Internal Stakeholder searches yield over s 47E(d) of documents, please alert the FOI Officer in Question 7 or 8, Section B, Part 2 as soon as practicable. It may indicate the FOI request could be too complex or voluminous to process as currently drafted. The FOI Officer may need to consult with the Applicant to determine if the FOI request can be refined to make it more manageable to process. In some instances (if the scope of the FOI request cannot be refined) the FOI Team may make a practical refusal decision. However, this decision is to be made by the FOI Officer and must be fully justified and defensible.

I need to provide the FOI Team with body worn camera footage, or other types of documents that are too large for email. What do I do?

Please advise the FOI Team and the FOI Officer will facilitate a secure method of transfer via Teams.

Do I need to send in my notebook or original case files?

No, please only provide copies of documents. Do **not** provide original documents.

How do I provide comments to the FOI Officer when I return the RT?

Section B, Part 2 contains a table for your name, the date on which you have returned a response to the FOI Team, and any recommendations or comments you have related to the searches you have conducted.

How do I return Part 2?

Once the Internal Stakeholder has completed all of Part 2, please save a Microsoft Word copy and return it to the FOI Officer via foi@afp.gov.au. It is recommended the Internal Stakeholder retains a copy for their own records.

The incident is historical, and I no longer have the documents in my possession?

Please request the documents from Records Management Unit (RMU) and advise the FOI Officer that you are waiting on receipt of documents from RMU.

3. Information contained in the documents yielded by the searches

The searches I have done have yielded sensitive material. What do I do?

There are a wide range of reasons why documents or parts of documents may be considered sensitive, including but not limited to the following examples:

- releasing the documents would cause harm (including to the AFP's operations security, capability, or budget)
- the documents are part of an ongoing investigation or prosecution (or other court process)
- the documents contain images/content that could be considered confronting, extreme or prohibited material
- there is information related to a confidential informant
- the documents have a high security classification, or
- releasing the documents could attract significant public or media attention or have political implications.

If you have concerns about sensitivities, please note them in Question 4, Section B, Part 2 and highlight the sensitivities in the documents you return. Please note the above list of examples is not exhaustive and does not necessarily mean the documents or parts of the document will automatically or always be exempt from release under FOI. Please contact the FOI Officer to discuss any issues or sensitivities the documents present.

AFP appointees should refer to section 9 of the [Information Management Handbook](#) for guidance on information disclosure. Section 9 will assist with the assessment of whether documents involve sensitive issues which should be advised to the FOI Team.

Some of the material I have located is confronting.

Please alert the FOI Officer in Question 6, Section B, Part 2 when sending back the RT.

Do I provide my own redactions to the documents?

No. To meet the AFP's statutory obligations, the FOI Officer and FOI Team *must* be able to view complete and unredacted documents to make a Decision that complies with the FOI Act. You are required to confirm you have sent unredacted material in Section C, Part 2.

Where redacted documents are sent to the FOI Team, the Internal Stakeholder will be asked to send a clean copy of the documents. Internal Stakeholders can advise on suggested Exemptions and redactions, by providing a 'marked up' version of the documents (can be a highlighted version), but also providing a clean copy of the documents.

Some of the material looks like it might have been issued by lawyers, or be legal advice. What should I do?

In your searches, Internal Stakeholders may locate documents that are classified as "OFFICIAL: Sensitive Legal Privilege", or Internal Stakeholders may notice that some of the documents may have been prepared by solicitors.

This material could be exempt on the basis it attracts legal professional privilege (**LPP**). However, it is important to note the security classification of the document as legal privileges does not automatically mean the document is actually exempt from release under the FOI Act.

Whether a document or part of a document is, as a matter of fact covered by LPP requires the assessment of the document against a number of factors which must be present for a document or part of a document to meet the legal threshold for LPP. The FOI Team must be able to view the document to make this assessment. The FOI Officer may consult with AFP Legal in these instances.

If the Internal Stakeholder locates documents that are classified as "OFFICIAL: Sensitive Legal Privilege", or consider a document may fall into this category (whether classified as such or not), please alert the FOI Officer when you return the document in the RT.

If you are unsure whether the document may contain material subject to legal professional privilege, please consider the [Better Practice Guide on LPP](#) for further information.

4. Clearance of documents

Will the relevant command or unit have an opportunity to view the documents the FOI Team proposes to release and/or redact?

Yes. The FOI Team will seek clearance at the relevant level from the Internal Stakeholder prior to releasing any documents to the Applicant. The clearance will be captured on the RT in Part 6.

Is filling out Part 6 of the RT mandatory?

Yes. However, this will be completed by the FOI Officer managing the FOI Request. This is the record of the clearance held by the FOI Team and it is essential for this to be obtained in writing prior to the release of any documents.

5. Timeframes

When does the AFP need to provide its decision to the Applicant?

Every FOI request must be processed within 30 calendar days. The 30 day period for notifying the Applicant of a Decision commences on the day after (the day) the AFP receives the FOI request, provided the request meets the formal requirements of section 15(2) of the FOI Act.

Why am I only provided 5 Business Days to respond to the Request?

Given the tight statutory timeframes within which the AFP must respond to each FOI request, any response from the line area must be processed within 5 Business Days. On occasion, this timeframe may be reduced depending upon the stage and significance of the FOI request (which may affect the level of clearance required).

I can't meet the deadline.

Please contact the FOI Officer immediately.

Can the AFP get an extension to the timeframe to respond to the request?

The FOI Act contains a number of provisions which allow for additional processing time for FOI requests. There are four extension types:

- extensions of time with the Applicant's agreement (up to 30 days)
- extensions of time to allow the agency to consult a third party (additional 30 days)

- extensions of time for complex or voluminous requests (up to 30 days - time to be determined by the FOI Officer)
- extensions after the processing period runs out (additional time to be determined by the FOI Officer).

Are public holidays and agency shut-down periods counted in the 30 day processing period?

Yes. Public holidays and shut down periods do not extend the standard processing period of 30 calendar days.

The end of the 30 day processing period is affected by s 36(2) of the *Acts Interpretation Act 1901*. If the last day for notifying a decision falls on a Saturday, Sunday or a public holiday, the timeframe will expire on the first following day, which is none of those days.

What happens if the AFP does not meet the statutory processing timeframe?

If the AFP has not met the statutory timeframe and/or an extension of time has been refused or not requested, the AFP is required to continue to process the FOI request.

The expiry of the timeframe means the FOI request is a deemed by the FOI Act to have been decision to refuse access to the documents. This is referred to as a 'deemed decision'. A deemed decision removes the Applicant's right to an IR however it gives the Applicant the right to apply directly to the OAIC for an IC review of the deemed decision.

Despite the deemed decision, the AFP still has an obligation to process the FOI request. The AFP must also publicly report the number of FOI requests which were not processed within the required timeframe. If a significant number of FOI requests result in deemed decisions, the OAIC can commence an investigation, resulting in recommendations, or issue directions under the FOI Act, with which the AFP must comply.

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INFORMATION PUBLIC ACCESS SCHEME 1992)

H. Resources

Resource	Resource Link
Freedom of Information Act	https://www.legislation.gov.au/C2004A02562/latest/text
National Guideline on Freedom of Information Releases	
Information Management Handbook	s 47E(d)
Information Publication Scheme	https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/proactive-publication-and-administrative-access/information-publication-scheme
OAIC Guidelines	https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines
OAIC Guidelines – Processing and Deciding on Requests for Access	https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-3-processing-and-deciding-on-requests-for-access
OAIC Guidelines - Exemptions	https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-5-exemptions
OAIC Guidelines – Reasonable Searches Checklist	https://www.oaic.gov.au/_data/assets/pdf_file/0019/8263/processing-foi-requests-reasonable-steps-checklist.pdf

I. Defined Terms

Defined Terms	Meaning
Applicant	means a person who has made a request in accordance with section 15 of the FOI Act.
AFP	means Australian Federal Police
AFP appointee	has the meaning given to it in the <i>Australian Federal Police Act 1979</i> .
AFP FOI National Guideline	means the AFP National Guideline on Freedom of Information releases.
Decision	means the Decision made in relation to an FOI request, or Internal Review by the Decision Maker in accordance with this DAC076 Instrument.
Decision Maker	means those persons under the DAC076 Instrument authorised to make decisions under the FOI Act.
Exemptions	Means any FOI Act exemption (partial or full) which may be applied to an Applicant's FOI request
FOI	means Freedom of Information
FOI Act	means the <i>Freedom of Information Act 1982</i> (Cth) as amended from time to time
FOI Officer	means the member of the FOI Team responsible of the processing of an FOI request and who who sent the document request

FOI Team	means the Freedom of Information team within AFP Legal and the Chief Counsel Portfolio in the AFP
IC Review	means a review of a decision issued by the AFP in respect of an FOI request where the Applicant seeks an external review by the OAIC, in accordance with s54N of the FOI Act
Internal Review (IR)	means an internal review of an FOI decision by the AFP and requested by the Applicant in accordance with s54B of the FOI Act
Internal Stakeholders	includes, but is not limited to, all AFP members, appointees, commands, units or departments.
Notifiable FOI Request	s 47E(d)
OAIC	means the Office of the Australian Information Commissioner.
Part 1	means Part 1 - Request and Scope of the RT
Part 2	means Part 2 - Internal Stakeholder Responses of the RT as setout in Annexure A to this BPG..
Part 3	Means Part 3 – Consultation of the RT
Part 4	Means Part 4 – Exemptions and Reasons of the RT
Part 5	Means Part 5 – Quality Assurance of the RT
Part 6	Means Part 6 – Clearance part of the RT
Part 7	Means Part 7 – Preparation for Finalisation of Decision of the RT
Request Tracker (RT)	means the FOI Request Tracker, which is the applicant's request summary prepared by the FOI Officer which includes 7 parts, one of which is to be completed by the Internal Stakeholders and returned to the FOI Team.

J. Annexure A

Part 2 – Internal Stakeholder Responses

PART 2 – Internal Stakeholder Responses

All 3 sections of Part 2 **must** be completed by AFP Internal Stakeholders i.e. line areas or AFP appointees. This Part must be duplicated for each internal stakeholder.

All information in this section must be completed before the AFP FOI Officer reviews the materials and makes the necessary exemptions. If you have questions about this process, please refer to the Better Practice Guide.

Upon receipt of an email from the FOI Officer, you have **5 Business Days** to conduct searches, compile documents and prepare a response to this Part 2. If the scope of the Request is unclear, please email the FOI Officer.

Complete Your Details

Name of Stakeholder and AFP ID:

Stakeholder Command/Line Area:

Date: Click or tap to enter a date.

Section A: Searches Conducted

Please ensure you answer Y/N for each of the following questions. All **must** be answered, and comments **must** be completed.

If you select 'No' for any option, please indicate why in the 'Search Results' column.

Please outline all search terms i.e. Applicants details, text field searches, etc used when conducting searches and enter them into the 'Search Parameters' column. Your FOI Officer must understand the search terms and the outcome of that search to evaluate and inform the decision making for the Request.

System name	Checked	Search Results	Search Parameters
PROMIS	Choose an item.		Exact match. Use Soundex Wildcard: (where the % sign is a 'wild card' that replaces all characters of the alphabet and allows for greater searching of the database).
AFP Email System (Outlook)	Choose an item.		
Official AFP files	Choose an item.		
Official Diary/Diaries	Choose an item.		
AFPSEC/AFPTSN	Choose an item.		
CCTV footage	Choose an item.		

System name	Checked	Search Results	Search Parameters
IMS	Choose an item.		
Evidence.com/AXON	Choose an item.		
Field Notebook(s)	Choose an item.		
Electronic directories (H:, J:, S: drives etc.)	Choose an item.		
Lockable safes	Choose an item.		
USB/data storage devices	Choose an item.		
CMS	Choose an item.		
Call recordings made to ACT Police Communications	Choose an item.		
Other (please specify)	Choose an item.		

Section B: Questionnaire

Please ensure you answer Y/N for each of the following questions. All questions **must** be answered. Depending upon your answers, the FOI Officer may seek further clarification from you. Your answers are used to inform the application of exemptions under the FOI Act.

Item	Question	Answer	Comment, if applicable
1.	Are there documents?	Choose an item.	
2.	Are you required to create a document to fulfil this request?	Choose an item.	If yes, please provide further details as this may inform the outcome of the decision.
3.	Are the documents owned and controlled AFP data?	Choose an item.	Where information is held in third party systems accessed by AFP appointees, this is not part of any request as this document is not within the AFP's control.
4.	Do you consider the material to be sensitive?	Choose an item.	If yes, why?
5.	Can we confirm with the applicant that we hold docs or not?		
6.	Are the materials sexually explicit, or contain material considered to be harmful?	Choose an item.	
7.	Are there more than s 47E(d)	Choose an item.	What are some ways the FOI Applicant can revise their request (i.e. limiting to specific types of documents, specifying a shorter timeframe, etc.

Item	Question	Answer	Comment, if applicable
8.	Is there more than s 47E(d) of footage?	Choose an item.	<i>What are some ways the FOI Applicant can revise their request (i.e. limiting to specific types of documents, specifying a shorter timeframe, etc.</i>
9.	Are the documents (whole or part) from another agency?	Choose an item.	<i>Please specify which agency</i>
10.	Are the materials part of an ongoing investigation or prosecution or Appeal?	Choose an item.	<i>Please provide details (where possible)</i>
11.	Do the materials contain methodologies or operational information?	Choose an item.	<i>Please explain your answer, if yes.</i>
12.	Is higher clearance required before the material can be released?	Choose an item.	<i>Specify who and why.</i>
13.	Should this Request be directed to a different person or Command within AFP?	Choose an item.	<i>Who and provide their email address</i>
14.	Does this matter relate to International Relations?	Choose an item.	<i>If yes, please provide details.</i>
15.	Are there any issues in outsourcing the processing of this request to an external law firm?	Choose an item.	<i>If yes, please provide details.</i>

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Section C: Checklist

When returning this Part 2, please complete the following checklist. If the checklist is not completed, the FOI Officer will return this document to you for completion.

No.	Checklist	Mandatory Checklist
1.	Time taken <i>This includes any time taken, in hours, responding to, performing searches, collating documents.</i>	Choose an item.
2.	If you answered 'yes' to questions 7 and 8 in Section B, practical refusal reasons exists and there is no need to send documents to your FOI Officer. <i>The following questions 3 - 6 inclusive of this Checklist are not required to be completed.</i>	Not applicable ☐
3.	Documents must be provided in a consolidated format including emails which must be in one PDF document.	Complete ☐
4.	Unredacted documents <i>If the file size is too large to send via email or internal mail, please advise the FOI Officer in the first instance and we will facilitate a secure method of transfer via a shared folder or via Teams.</i>	Attached ☐ Sent via Teams ☐
5.	Highlighted Sensitives in documents <i>Where Internal Stakeholders are aware of sensitives or exemptions, please provide highlighted documents, in yellow highlight, together with the unredacted documents so the FOI Officer can assist with the exemptions to be applied.</i>	Attached ☐ Sent via Teams ☐
6.	Email thread <i>Please provide the last thread of the email chain. Multiple email threads/conversations of the same subject matter is not required. Only the last correspondence.</i>	Noted ☐

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