
Informal release of information

This practice note provides an overview of the process, benefits, and limitations of informally releasing government information.

All legislative references are to the *Freedom of Information Act 1982 (Vic) (the Act)* unless otherwise stated.

What is informal release?

Informal release involves an agency receiving an information access request and releasing the requested information or document, either in full or in part, outside the Act. This is also known as administrative release. For example, an agency may establish an access arrangement for commonly requested information or documents, where an individual does not need to make a request under the Act.

The Act provides for informal release under section 16(2), which notes that nothing in the Act prevents an agency from providing a person with access to documents outside the Act, where it is possible and lawful to do so.

Further, [Professional Standard 1](#) requires an agency to consider whether a document in its possession and requested under the Act, can properly be provided outside the Act, and if so, facilitate access or otherwise advise how an applicant can access the document. This is discussed further below.

Every agency should aim to provide access to government information outside the Act through proactive and informal release wherever possible.¹

Examples of informal release

An agency may provide access to information informally by:

- Providing information over the telephone or via email in response to a request from a person. For example, an agency receives an email enquiry from a member of the public asking for information on when it will close public consultation on a proposed infrastructure project and what the next steps are. The agency provides the requested information by return email.
- Inviting a person to inspect information. For example, a member of the public asks an agency if they can inspect information on a register that the agency maintains. The agency provides information about how to inspect information on the register, including whether the person needs to fill out an application form and whether a fee applies. The agency facilitates the inspection.
- Providing access to information under an informal release scheme. Some agencies administer an informal release scheme, which may be established under legislation or policy. These schemes outline a process for asking for information, outside of the Act. For example, an agency identifies commonly requested information under the Act and establishes a process for accessing that information outside of the Act. The agency provides information about how to access information under the scheme on its website and facilitates access to information via the scheme.

¹ Proactive release is different to informal release in that it involves an agency making information or documents it holds or collects publicly available, on its own accord, without someone making a request for that information. For information on proactive release, read OVIC's Practice Note. For more information on proactive release, read OVIC's [Proactive Release of Information Practice Note](#).

Benefits of informal release

There are significant benefits to both agencies and the public when government held information is released informally. For example, informal release:

- builds public trust and confidence in decision-making by government and public institutions and strengthens principles of liberal democracy;
- enhances public sector accountability and integrity;
- increases public access to government information and allows them to participate in policy development and government decision making;
- improves government service delivery to the public by providing access to information faster and more easily than under freedom of information (**FOI**);
- reduces the need for an individual to make a formal FOI request and the staff and financial resources required to administer the Act; and
- provides the opportunity for an agency and individual to agree on when and in what form information is to be released.

When to release information or documents informally

An agency may release information or documents informally at any time, provided it is lawful and possible for it to do so.

An agency may also be required to consider informal release under the Professional Standards. For example, where an individual makes an FOI request under the Act, [Professional Standard 1.1](#) requires the agency to consider whether the requested document can be properly provided to the individual outside the Act. 'Properly' refers to an agency ensuring it is authorised to provide access to the relevant document and there are no prohibitions or restrictions on its release (for example, secrecy provisions, a court order or privacy considerations).

When considering whether information or a document can be informally released, an agency may have regard to a number of factors, including:

- who is requesting the document and for what purpose – for example, if the information relates to the personal affairs of the applicant, it may be appropriate to informally release the information to them;
- the nature of the information or document – for example, whether the document contains personal, sensitive, or commercial sensitive information;
- whether the document could be provided if certain information was deleted (for example, personal, sensitive, or commercial sensitive information) and the individual agrees to the information being deleted from the document;
- any statutory secrecy provisions or other restrictions (for example, a court order) that may prevent the release of the information or document; and
- the functions and activities of the agency – information or documents relating to routine functions or activities may be appropriate for informal release.

An agency should consider the informal release of information or documents it holds that relate to its usual governmental functions and operations. Where a document relates to a commercial matter (a tender process or procurement for goods and services) it may still be appropriate for informal release with certain information deleted from the document.

An agency may need to consult with business areas within the agency to understand the nature and context of the requested document.

If a document can be provided outside the Act, under [*Professional Standard 1.2*](#), the agency must either:

- facilitate access to the information or document; or
- advise the individual how the information or document can be accessed. This may include providing the individual with a copy, arranging an inspection or viewing, or otherwise providing access to the information or document. The agency may also advise the individual how access can be obtained via another method, for example a statutory release scheme or by purchase.

Considerations for informal release

Form of release

Informal release allows an agency to be flexible in the way in which it releases information or a document. For example, an agency may release information informally by telephone, email, letter or in person. Similarly, access to a document may be provided in full or with certain information deleted with the agreement of the individual seeking access.

Timeframes

Unlike an FOI request made under the Act, there is no time limit for an agency to provide access to information or documents outside the Act. Nonetheless, when informally releasing documents, an agency should endeavour to do so promptly, and actively engage with the individual seeking access. This may involve providing an estimated timeframe for release, or coming to an agreement about the time in which the agency will provide access.

If an agency decides informal release would take a substantial amount of time, it should discuss other options for access with the individual seeking access (for example, making a formal FOI request) to ensure they are aware of statutory time frames and their review and complaint rights under the Act.

Fees and charges

There is no prescribed fee for requesting information outside the Act. Generally, agencies should aim to release information for free. However, there may be instances where this is not appropriate, for example where there is a large volume of documents. In those circumstances, the agency could consider providing access in an alternative form, such as allowing the individual to view the information or documents at the agency's office, providing the documents in electronic form or making copies of documents at their own expense. Noting this, there is nothing prohibiting an agency from charging the reasonable costs associated with providing access informally.

Keep in mind that a document that contains information that is available for purchase by the public in accordance with arrangements made by an agency is not subject to the Act (section 14(1)(b)). For example, if an agency has an established process for releasing a certain class of documents to the public outside the Act, subject to a fee, those documents are not subject to the Act.

Conditions on access and use

Documents released under the Act are released without any conditions or restrictions on their future use or further dissemination. Similarly, the Act does not impose limits on how documents or information informally released may be used. Agencies should keep this in mind when considering the informal release of information or documents.

Authority to release information

Agency officers providing informal release should ensure they have the appropriate authority, on behalf of their agency, to do so. An agency officer may refer to its agency's internal policies, such as a Proactive and Informal Release Policy, to identify what information they are authorised to release informally.

Review rights

Informal release does not provide the individual seeking access with review or complaint rights available under the Act. If the individual indicates they would like the opportunity for independent review if refused access to certain information or documents, the agency should inform the individual their request may be appropriately made under the Act.

Privacy

When considering informal release of personal information, an agency should consider the Information Privacy Principles under *Privacy and Data Protection Act 2014* (Vic) (**PDP Act**), and ensure they have the authority under the PDP Act or other legislation to release or publish any personal information.

Protection from liability

The protections against defamation or breach of confidence under section 62 do not apply when documents or information are informally released. However, this should not be seen as a barrier as these protections do not have general application and will only apply when relevant.

Recording decisions to release information informally

An agency should keep a record of documents it makes available through informal release, including any conditions attached to the release and relevant considerations to support the decision to release the documents informally. Records can be useful in determining if a document has been previously released, or is being routinely requested.

A record of what the agency informally releases can also be used for reporting purposes. This can be useful for measuring the resources dedicated to informal release, and for providing examples of how the agency has tried to implement the spirit and intention of the Act for the purpose of OVIC's Annual Report.²

If a request cannot be dealt with informally

In some cases, after attempting to respond to a request informally, it may not be possible or appropriate for the agency to deal with the request informally. For example, the request may be too complex or too voluminous. In these cases, the agency may ask the individual seeking access to make an FOI request under the Act.

² For example, see page 110 of OVIC's [2020-21 Annual Report](#).

Supporting a culture of informal release

Adopt a proactive and informal release policy

Adopting a policy to guide the proactive and informal release of information can assist agency staff to confidently provide access to information outside of the Act. A policy should identify information that can be proactively or informally released (such as commonly requested information) and authorise agency staff to facilitate access to it.

Agencies may choose to publish their policies so that the public and other stakeholders are aware of the types of information the agency routinely provides access to outside of the Act. For an example of what should be included in a proactive and informal release policy, refer to OVIC's forthcoming *Proactive and Informal Release Policy Template*.

Keep Part II information statements current

Maintaining Part II information statements helps the public to understand what information an agency holds and in what form. Information published under Part II is required to be reviewed at least once every twelve months to make sure it is up to date.³ Each agency should take the most practical and efficient approach to keeping its Part II information statements up to date. For example, reviewing and updating the information on a regular basis, and when a change has occurred that affects the accuracy of the information, such as where the organisational structure changes.

Provide options for accessing information

Agencies should present all options for accessing information on their website with sufficient detail for the public to make an informed choice about which option to use. For example, an agency may list options for accessing its information, such as an informal release scheme, another platform on which the information is available (such as data.vic.gov.au), contacting the agency, or making an FOI request. Briefly explain when a person would use each option and what information they are likely to receive. Listing FOI last will help individuals to understand what other options are available to them, which may be quicker and cheaper for them than seeking access to the information through FOI.

If an agency uses an FOI application form, consider including information about alternate ways a person may access information to help them make an informed choice about which option to use. For an example, see OVIC's [Template FOI form – application for documents – section 17](#).

Explore technological capabilities

Explore technological capabilities to flag documents that have been published or which are suitable for proactive or informal release (for example, use metadata to include a label on the document). Flagging documents can help to reduce the need to assess whether to release the document or information each time it is requested, which can reduce the time needed to provide access to it.

Additionally, flagging documents can indicate information that is sensitive and not suitable for release without review. This makes it easier for agency officers to navigate records and confidently decide what can be informally released versus what may need a more considered assessment.

³ For example, see sections 7(1)(b), 8(2)(b), and 11(2)(b) of the Act.

Create documents with public access in mind

Create documents for public release where possible. Where a document must include sensitive information that cannot be released, consider siloing the sensitive information, or creating a summary of the document, so that as much information as possible can be released. Explain why some information cannot be provided, where possible.

Take a customer service approach to information access

When an agency receives an FOI request, it must consider whether the information sought can be provided outside of the FOI Act ([*Professional Standard 1.1*](#)). If it can, then the agency must facilitate access to that information ([*Professional Standard 1.2*](#)).

An agency may triage requests to identify the potential for informal release. An agency may need to talk to the applicant to confirm the scope of the request, understand what they are seeking, and ask for more context. If informal release is possible, the agency should explain the applicant's options for accessing the information outside of the FOI Act, what the process involves, and whether they will receive the information they are seeking. If the applicant will not receive all information they want outside of the Act, the agency should explain that review and complaint rights are not applicable if it processes the request outside of the Act.

Education and training

Build proactive and informal release and FOI into agency training and education (for example, new staff orientation and refresher training). Explain what information can be released and how to work with transparency in mind, so that all staff across the agency are aware of the role they play in their agency's information access processes.

Disclaimer: The information in this document is general in nature and does not constitute legal advice.

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