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| **FOI OFFICER – PROCESSING CHECKLIST**  **Processing a section 17 request under the *Freedom of Information Act 1982* (Vic)** | | | | | | |
| **Applicant:** | |  | **Date received:** |  | | |
| **Our reference:** | |  | **Date valid:** |  | | |
| **Authorised FOI officer:** | |  | **Date due:** |  | | |
| 1. **Ensure the request is valid** | | | | | | |
|  | On the face of the request, can you facilitate informal access to the document, or advise the applicant how the document can be accessed?  If it’s not clear, consider contacting the applicant to confirm the scope of their request, understand what they are seeking, and ask for context to help decide whether you can facilitate informal access to the document.  *See Professional Standard 1.2, Practice Note 6.* | | | Yes  Continue to 1.2 | No  Go to 1.3 | |
|  | Facilitate access or advise the applicant how the document can be accessed.  *See Template 7.* | | | Finalise request and stop | | |
|  | Does the request meet the requirements for a valid request under section 17?If you cannot check off each of the requirements listed below select ‘No’.  *See Practice Note 3.* | | | Yes  Go to 1.6 | No  Continue to 1.4 | |
| * The request is in writing. | | |  | | |
| * The request provides sufficient information to identify the documents requested. | | |  | | |
| * The request is accompanied by either:   + the application fee; or   + a request for a fee waiver or reduction including evidence of hardship to support the waiver or reduction of the fee. | | |  | | |
|  | Notify the applicant that their request is not valid within 21 days of receiving the request and:   * advise why the request is not valid; * provide reasonable assistance or advice about how to make the request valid; * provide a reasonable opportunity to consult on the terms of the request where applicable; * advise that the agency may refuse to comply with the request if it does not comply with section 17 of the FOI Act.   *See Template 9, Professional Standard 2.4, sections 17(3) and 17(4).* | | | Continue to 1.5 after providing notification | | |
| Date notification provided to applicant: | | | [DD/MM/YYYY] | | |
| Date response due, being at least 21 days from date of notification above: | | | [DD/MM/YYYY] | | |
|  | Has the applicant made their request compliant with section 17 (i.e. paid the application fee, clarified their request) after providing the notice in Step 1.4? | | | Yes  Go to Step 2 | No  Continue to 1.7 | |
|  | On the face of the request, is it clear that the requested documents do not exist? | | | Yes  Go to Step 12.1 | No  Go to Step 2 | |
|  | Finalise the request without processing it, in accordance with *Professional Standard 2.5.* For example, after providing reasonable assistance, the 21 days has expired, the applicant has not made the request compliant with section 17 or otherwise engaged in clarification. | | | Finalise request and stop | | |
| 1. **Consider whether to transfer the request** | | | | | | |
|  | Is another agency in possession of the requested documents?  *See section 18(2)(b)(i).* | | | Yes  Go to 2.3 | | No  Continue to 2.2 |
|  | Is the subject matter of the requested documents more closely connected with the functions of another agency?  *See section 18(2)(b)(ii).* | | | Yes  Continue to 2.3 | | No  Go to Step 3 |
|  | I have transferred the request to another agency under section 18(2)(b)(i) or section 18(2)(b)(ii).  *See Template 10.* | | | Yes  Continue to 2.4 | No  Go to Step 3 | |
| Date the request was transferred: | | | [DD/MM/YYYY] | | |
|  | A copy of the requested document was provided to the agency to which the request was transferred as it was necessary to enable the other agency to deal with the request. | | | Yes  Continue to 2.5 | No  Continue to 2.5 | |
|  | Notify the applicant of the transfer in accordance with section 18(2).  *See Template 11.* | | | Finalise request and stop | | |
| 1. **Consider whether the request is a repeat request** | | | | | | |
|  | Has the applicant previously made a request to your agency (or a predecessor agency) for access to the same documents or information?  *See section 24A(1)(a).* | | | Yes  Continue to 3.2 | No  Go to Step 4 | |
|  | Was the previous request refused and the Victorian Civil and Administrative Tribunal confirmed that decision?  *See section 24A(1(b).* | | | Yes  Continue to 3.3 | No  Go to Step 4 | |
|  | Are there reasonable grounds for making the request again?  *See section 24A(1)(c).* | | | Yes  Go to Step 4 | No  Continue to 3.4 | |
|  | Provide notice of your refusal under section 24A(2), and inform the applicant of:   * the right to apply for a review of the decision from the Office of the Victorian Information Commissioner; and * the time within which the application for review must be made. | | | Finalise request and stop | | |
| 1. **Consider whether access can be provided outside the FOI Act** | | | | | | |
|  | Can you facilitate informal access to the document/s, or advise the applicant how the document/s can be accessed?  *See Professional Standard 1.2, Practice Note 6.* | | | Yes  Continue to 4.2 | No  Go to Step 5 | |
|  | Facilitate access or advise the applicant how the document can be accessed.  *See Template 7.* | | | Finalise request and stop | | |
| 1. **Consider whether to extend the time** | | | | | | |
|  | Prior to continuing, do you think you should seek the applicant’s agreement to extend the time?  Consider current resources, volume of applications etc. | | | Yes  Continue to 5.2 | No  Go to Step 6 | |
|  | I have sought the applicant’s agreement either in writing or by phone to an extension of time by a period of not more than 30 days under section 21(2)(b). Do not stop processing the request if waiting for a response – continue to 6.1.  *See Template 12, Practice Note 8.* | | | Yes  Continue to 5.3 | No  Go to Step 6 | |
|  | The applicant has agreed to the extension. | | | Yes  Continue to 5.4 | No  Go to Step 6 | |
|  | Notify the applicant in writing of the extension of time, noting:   * under which subsection of section 21(2) the time has been extended or further extended; * the particular reasons for the extension; and * the number of days by which the due date was extended.   *See Template 13, section 21(4), and Professional Standard 3.2.* | | | Continue to Step 6 or resume processing from current step | | |
| 1. **Estimate access charges** | | | | | | |
|  | Based on your understanding of the agency’s document holdings, and the terms of the request (and without having searched for any documents), do you believe that access charges likely exceed $50?  *See Practice Note 11.* | | | Yes  Continue to 6.2 | No  Go to Step 7 | |
|  | Within 21 days of receiving a valid request, notify the applicant of the estimated access charges, and related deposit, and ask whether they wish to proceed with their request. Provide no less than 60 days for the applicant to pay the deposit.  *See Template 14, sections 22(3) and 22(4), and Professional Standards 4.1 and 4.2* | | | Continue to 6.3 after providing notification | | |
| Date the access charges notice was provided to the applicant: | | | [DD/MM/YYYY] | | |
|  | Did the applicant request to discuss practicable alternatives for altering the request or reducing the anticipated charge in accordance with section 22(6)? | | | Yes  Continue to 6.4 | No  Go to 6.5 | |
|  | Is an access charges deposit still required? | | | Yes  Continue to 6.5 | No  Go to Step 7 | |
|  | Did the applicant pay the access charges deposit? | | | Yes  Go to Step 7 | No  Continue to 6.6 | |
| Date the applicant paid the access charges deposit: | | | [DD/MM/YYYY] | | |
| New due date:  *Timeframe for processing a request resets when a deposit is paid – section 22(5).* | | | [DD/MM/YYYY] | | |
|  | After a minimum of 60 days finalise the request without processing it in accordance with *Professional Standard 4.1(f)*. | | | Finalise request and stop | | |
| 1. **Consider whether section 25A(1) applies – unreasonable diversion of resources** | | | | | | |
|  | Does it appear that the request would substantially and unreasonably divert the resources of your agency from its other operations?  *See section 25A(1), Practice Note 13.* | | | Yes  Continue to 7.2 | No  Go to Step 8 | |
|  | Notify the applicant in writingof your intention to refuse the request under section 25A(1):   * Provide the applicant with information that would assist in removing the ground for refusal, in accordance with section 25A(6)(c). * Provide the applicant with a reasonable opportunity (at least 21 days) to consult or begin consulting to remove the ground for refusal in section 25A(1), in accordance with section 25A(6)(b).   *See Template 15, section 25A(6), Professional Standard 5.2.* | | | Continue to 7.3 after providing notification | | |
| Date the section 25A(6) notice was provided to the applicant: | | | [DD/MM/YYYY] | | |
|  | Did the applicant sufficiently narrow the scope of their request? | | | Yes  Go to Step 8 | No  Continue to 7.4 | |
| Keep a record of consultation with the applicant, in accordance with *Professional Standard 5.3*. | | |  | | |
| Date the applicant sufficiently narrowed the scope of their request: | | | [DD/MM/YYYY] | | |
| New due date:  *Timeframe for processing a request pauses during consultation – section 25A(7).* | | | [DD/MM/YYYY] | | |
|  | Make a decision to refuse access in accordance with section 25A(1).  *See Template 20.* | | | Finalise request and stop | | |
| 1. **Consider whether section 25A(5) applies – all documents would be exempt** | | | | | | |
|  | Is it apparent from the nature of the documents described in the applicant’s request that all of the documents to which the request may relate are exempt documents?  *See Practice Note 14.* | | | Yes  Continue to 8.2 | No  Go to Step 9 | |
|  | Is it apparent, either from the request or as a result of consultation, that the applicant would not wish to receive an edited copy of the documents? | | | Yes  Go to 8.4 | No  Continue to 8.3 | |
|  | Is it apparent from the nature of the requested documents that you would not be required to edit the documents in accordance with section 25? | | | Yes  Continue to 8.4 | No  Go to Step 9 | |
|  | Make a decision to refuse access in accordance with section 25A(5). | | | Finalise request and stop | | |
| 1. **Search for documents** | | | | | | |
|  | I have ensured that thorough and diligent searches have been undertaken and all areas have searched for documents.  *See Templates 2 and 3, Practice Notes 9 and 10.* | | | Continue to 9.2 | | |
|  | A record of the document searches has been kept in accordance with *Professional Standard 6.1*.  *See Template 2 and 3, Practice Notes 9 and 10.* | | | Continue to 9.3 | | |
|  | Documents relevant to the request have been located. | | | Yes  Continue to Step 10 | No  Go to Step 12.1 | |
| 1. **Assess the documents** | | | | | | |
|  | Assess each document for release. Begin from a position that the public is entitled to access government information. The object of the Act is to extend as far as possible the right of the community to access information in the possession of the Government of Victoria. | | | Continue to Step 11 | | |
| 1. **Consult with third parties** | | | | | | |
|  | Do the documents contain third party information? For example, personal affairs or commercial information. | | | Yes  Continue to 11.2 | No  Go to Step 12 | |
|  | Are there any third parties that you cannot consult with as you consider it is not practicable to contact them?  *See Practice Note 12.* | | | Yes  Go to 11.3 | No  Continue to 11.4 | |
|  | Keep a record of why it is not practicable to consult with the relevant third party, in accordance with *Professional Standard 7.2*. | | | Continue to 11.4 | | |
|  | Are there any third parties that will be consulted? | | | Yes  Continue to 11.5 | No  Go to Step 12 | |
|  | Do you need to seek an extension of up to 15 days to undertake third party consultation?  *See Professional Standard 3.1, section 21(2)(a), Practice Note 8.* | | | Yes  Continue to 11.6 | No  Go to 11.7 | |
|  | Notify the applicant in writing of the extension of time, noting:   * under which subsection of section 21(2) the time has been extended or further extended; * the particular reasons for the extension; and * the number of days by which the due date was extended.   *See Template 13, section 21(4), and Professional Standard 3.2.* | | | Continue to 11.7 | | |
|  | Notify the relevant third parties and seek their views as to the disclosure of their information in the document.  *See Template 16, Practice Note 12.* | | | Continue to 11.8 | | |
|  | Keep a record of the third party consultation, in accordance with *Professional Standard 7.3*.  *See Template 4.* | | | Continue to Step 12 | | |
| 1. **Make a decision on the request and notify the applicant** | | | | | | |
|  | Is the decision that no documents exist or that no document could be located?  *See Practice Note 15.* | | | Yes  Continue to 12.2 | No  Go to 12.3 | |
|  | Prepare and send a decision letter to the applicant in accordance with section 27 and *Professional Standard 8.4* – *see Template 19.*  In the decision ensure you check off each requirement below: | | | Finalise request and stop. | | |
| * state the findings on any material questions of fact, refer to the material on which those findings were based, and state your reasons for the decision (section 27(1)(a)) | | |  | | |
| * state the name and designation of the person giving the decision (section 27(1)(b)) | | |  | | |
| * inform the applicant of their right to make a complaint to the Information Commissioner within 60 days. | | |  | | |
|  | Is the decision to provide access to all documents in full?  *See Practice Note 15.* | | | Yes  Continue to 12.4 | No  Got to 12.5 | |
|  | Prepare and send a decision letter to the applicant in accordance with section 27 – *see Template 18*.  In the decision ensure you check off each requirement below: | | | Go to Step 13 | | |
| * state the name and designation of the person giving the decision (section 27(1)(b)) | | |  | | |
| * if applicable, note any appeal periods which may affect when the applicant may be granted access to the document | | |  | | |
| * if access to a document is deferred in accordance with section 24(1), indicate as far as practicable the period for which the deferment will operate | | |  | | |
| * if applicable, note any outstanding access charges the applicant is required to pay before access may be provided to the document | | |  | | |
|  | Is the decision to provide access to all or some documents in part or deny access in full?  *See Practice Note 15.* | | | Yes  Continue to 12.6 | No  Return to Step 12.1 | |
|  | Prepare and send a decision letter to the applicant in accordance with section 27 and *Professional Standards 8.2, 8.3 and 8.4* – *see Template 18*.  In the decision ensure you check off the requirements below: | | | Continue to Step 13 | | |
| * identify whether documents are being released in full, released in part, or denied in full (*Professional Standard 8.3(a)*) | | |  | | |
| * describe the documents or types of documents discovered (*Professional Standard 8.3(b)*) | | |  | | |
| * state the findings on any material questions of fact, refer to the material on which those findings were based, and state your reasons for the decision (section 27(1)(a) | | |  | | |
| * explain why each exemption or exception applies and address each limb of the relevant exemption or exception (*Professional Standard 8.2*) | | |  | | |
| * if you provide access to a document in part in accordance with section 25, state that the document is a copy of a document with exempt or irrelevant matter deleted (section 27(1)(c)) | | |  | | |
| * inform the applicant of their right to apply for a review of the decision, the authority to which the application for review should be made, and the required timeframe for any such application (section 27(1)(d)) | | |  | | |
| * if you provide access to the documents in a different form (section 23) to what the applicant requested, inform the applicant of their right to apply for a review of that decision to the Information Commissioner | | |  | | |
| * state the name and designation of the person giving the decision (section 27(1)(b)) | | |  | | |
| * if the decision relates to a refusal to grant access to a document containing health information, consider section 27(da) and (db) and whether to inform the applicant of the time within which:   + a written notice may be given under section 38(1) of the *Health Records Act 2001* nominating a health service provider for the purposes of Division 3 of Part 5 of that Act   + an application for a review of the decision may be made under Division 1 of Part VI of the FOI Act   + an application for conciliation may be made under Division 2 of Part VI of the FOI Act | | |  | | |
| * if a requested document does not exist or cannot, after a thorough and diligent search, be located, also inform the applicant of their right to make a complaint to the Information Commissioner | | |  | | |
| * if applicable, note any third party appeal periods which may affect when the applicant is granted access to the document | | |  | | |
| * if access to a document is deferred in accordance with section 24(1), indicate as far as practicable the period for which the deferment will operate | | |  | | |
| * if section 27(2) or section 33(6) apply to a document you are not required to confirm or deny the existence of the relevant document in accordance with the relevant section | | |  | | |
| * if applicable, note any outstanding access charges the applicant is required to pay before access may be provided to the document | | |  | | |
| 1. **Notify third parties of the decision** | | | | | | |
|  | Are you releasing any third party information that a third party objected to the release of, or otherwise did not provide their views on release of the information? | | | Yes  Continue to 13.2 | No  Go to Step 14 | |
|  | Is it practicable to notify any of the relevant third parties of their right to apply to the Victorian Civil and Administrative Tribunal for a review of the decision? | | | Yes  Continue to 13.3 | No  Go to Step 14 | |
|  | Prepare and send a notice to the third party, advising of the decision to grant access to the document and the third party’s right to make an application for review of the decision under the relevant section of the FOI Act.  *See Template 17.* | | | Continue to Step 14 | | |
| 1. **Provide access** | | | | | | |
|  | I have waited for all relevant third party appeal periods to expire. | | | Continue to 14.2 | | |
|  | Have there been any third party appeals to the Victorian Civil and Administrative Tribunal? | | | Yes  Go to Step 15.2 | No  Continue to 14.3 | |
|  | Is the applicant required to pay access charges? | | | Yes  Continue to 14.4 | No  Go to 14.5 | |
|  | The applicant has paid the required access charges. | | | Continue to 14.5 | | |
|  | Provide access to the document/s. | | | Finalise request and stop | | |
| 1. **Other** | | | | | | |
|  | The applicant withdrew their request. | | | Finalise request and Stop | | |
|  | Defer access until the Victorian Civil and Administrative Tribunal has made a direction or decision, and provide access in accordance with those directions or decision. | | | Finalise request and stop | | |