Overview of the Freedom of Information Guidelines

Freedom of Information Guidelines

Freedom of information

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### References to legislation

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

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Table of Contents

[Introduction to the Freedom of Information Guidelines 4](#_Toc133849184)

[Structure of the FOI Guidelines 4](#_Toc133849185)

[Overview of the Act 5](#_Toc133849186)

[Updating the FOI Guidelines 6](#_Toc133849187)

# Introduction to the Freedom of Information Guidelines

* 1. These Freedom of Information Guidelines (**FOI Guidelines**) provide guidance to the public, agencies, and Ministers on the [*Freedom of Information Act 1982*](https://www.legislation.vic.gov.au/in-force/acts/freedom-information-act-1982/111) (**the Act**) and the [*Freedom of Information (Access Charges) Regulations 2014*](https://www.legislation.vic.gov.au/in-force/statutory-rules/freedom-information-access-charges-regulations-2014/001) (**the Access Charges Regulations**).
  2. Adopting the approaches set out in the FOI Guidelines fulfils the object and intent of the Act to facilitate timely and low cost access to information. The FOI Guidelines are not legally binding and do not constitute legal advice.

## Structure of the FOI Guidelines

* 1. Each section of the FOI Guidelines generally follows the below structure:
* an extract of the legislation;[[1]](#footnote-1)
* FOI Professional Standards;
* OVIC guidance;
* OVIC review decisions and case law;
* examples; and
* links to more information.

## Overview of the Act

* 1. The Act applies to all Victorian public sector agencies and Ministers. This includes Victorian government departments, local councils, public hospitals and health services, public schools, universities, TAFE institutes, and statutory authorities. These agencies and Ministers have obligations to provide public access to information under this Act with limited exceptions.
  2. Under the Act, members of the public have the right to request access to documents held by a Victorian public sector agency or an official document of a Minister. Individuals can also ask an agency or Minister to amend incorrect or misleading personal information they hold about them when it is contained in a document.
  3. The Act promotes open government and transparency by requiring an agency to publish certain information including about its role, structure and the documents it holds, including internal policies and procedures. The Act also permits an agency or Minister to provide access to as much information as possible, even if that information may be exempt from release under the Act.
  4. The Act includes:
* Part I – Preliminary
  + Part I covers topics such as the object of the Act, definitions, and details when the Act will not apply to documents of the Office of the Victorian Information Commissioner (**OVIC**).
* Part IA – Office of the Victorian Information Commissioner
  + Part IA establishes OVIC and relates to administrative topics including the functions of the Information Commissioner and Public Access Deputy Commissioner and how they perform their functions and exercise their powers under the Act.
* Part IB – Professional standards
  + Part IB relates to the development of the FOI Professional Standards, to whom they apply, and how OVIC monitors compliance with them.
* Part II – Publication of certain documents and information
  + Part II outlines the kind of information that agencies and Ministers must publish including information about themselves and the documents they hold.
* Part III – Access to documents
  + Part III outlines the requirements for making a valid FOI request and the process that agencies and Ministers must follow in processing and responding to valid requests.
* Part IV – Exempt documents
  + Part IV outlines exemptions which may apply to a document or information in a document.
* Part V – Amendment of personal records
  + Part V outlines the requirements for a valid amendment request, how to process an amendment request, and how a record may be amended.
* Part VI – Review of decisions
  + Part VI outlines how to request a review of an agency or Minister’s FOI decision by OVIC and the Victorian Civil and Administrative Tribunal (**VCAT**) and how reviews are conducted.
* Part VIA – Complaints
  + Part VIA outlines how to make an FOI complaint to OVIC, what can be complained about, and how OVIC manages complaints.
* Part VIB – Investigations
  + Part VIB relates to how the Information Commissioner conducts investigations into an agency or principal officer due to an action taken or failed to be taken under the Act, and investigations into public interest complaints.
* Part VIC – Coercive powers
  + Part VIC outlines the Information Commissioner’s coercive powers.
* Part VII – Miscellaneous
  + Part VII relates to topics such as protections in relation to legal action, offences, reporting by OVIC, and regulations.
  1. The Access Charges Regulations relate to agencies and Ministers imposing charges for providing access to information and setting amounts to be paid under the Act.

## Updating the FOI Guidelines

* 1. OVIC intends to update the FOI Guidelines from time to time to reflect changes in the law and its interpretation.
  2. OVIC welcomes feedback on the FOI Guidelines at any time. Feedback can be sent to [policyteam@ovic.vic.gov.au](mailto:policyteam@ovic.vic.gov.au).



www.ovic.vic.gov.au

1. The FOI Guidelines do not include reference to repealed sections. To read the Act in full, visit [legislation.vic.gov.au](https://www.legislation.vic.gov.au/in-force/acts/freedom-information-act-1982/109). [↑](#footnote-ref-1)