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Access to Information (Proactive and Informal Release) Policy

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# Introduction to the Policy

This Policy will help employees of agency to understand when and how information can be released to the public proactively and informally.

Providing access to government-held information is a central function of every Victorian Government agency. The *Freedom of Information Act 1982* (Vic) (**FOI Act**) provides a legislative framework for processing formal freedom of information (**FOI**) requests. However, as a Victorian Government agency, information we hold should be accessible outside of the formal requirements of the FOI Act where possible.

The Policy is separated into the following parts:

* Introduction
* Definitions
* Our commitment to public access to information and guiding principles for using this Policy
* Proactively providing access to information
* Informally providing access to information
* Information approved for public release (including how to recommend information to be approved)
* Monitoring, evaluation, and review
* Related policies and legislation
* More information
* Appendix – Table of approved information

## What the Policy aims to achieve

This Policy aims to:

* + empower Victorian Government employees to provide public access to the information we hold by approving information for release;
  + support employee decision-making around public access to information;
  + demonstrate executive and senior leadership support of public access to information;
  + facilitate and promote a culture of transparency;
  + make the maximum possible amount of information we hold available promptly and inexpensively outside of the FOI Act;
  + make the FOI Act a last resort for requesting access to our information; and
  + enable the public to participate meaningfully in society and support better government decision-making through public access to information and transparency.

## Who the Policy applies to

The Policy applies to all agency employees, including seconded, contracted, and temporary employees (referred to in this Policy as ‘employees’).

## When to use this Policy

Use this Policy to provide public access to information outside of the FOI Act proactively and/or informally.

If you want to know how to:

* 1. meet the requirements of the information publication scheme in Part II of the FOI Act – see the FOI Guidelines for detailed guidance on Part II of the FOI Act;
  2. respond to an FOI request – talk to agency’s FOI Unit [include email address] or read agency’s FOI Policy; or
  3. share information with other organisations – see agency’s Information Sharing Policy.

## Roles and responsibilities

This part outlines the roles and responsibilities for agency employees in implementing this Policy.

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| --- | --- |
| **Person** | **Role and responsibility** |
| Principal officer | * endorse this Policy and communicate its requirements to employees * approve information for public release * authorise other officers to approve information for public release * lead a positive information access culture of making the maximum possible amount of government information available promptly and inexpensively outside of the FOI Act * support and empower agency employees to provide access to information in accordance with this Policy |
| Executive and senior officers | * + provide access to information in accordance with this Policy   + identify information suitable to be approved for public release under this Policy   + build and maintain a positive information access culture of making the maximum possible amount of government information available promptly and inexpensively outside of the FOI Act   + require agency employees to familiarise themselves with and provide access to information in accordance with this Policy |
| Policy owner | * + maintain a list of information approved for public release under this Policy   + regularly update the Policy |
| All other employees | * + provide access to information in accordance with this Policy   + identify information suitable to be approved for public release under this Policy and contact the Policy owner   + contribute to a positive information access culture in agency by making the maximum possible amount of government information available promptly and inexpensively outside of the FOI Act |

# Definitions

This part outlines definitions for certain terms the Policy uses.

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| **Term** | **Definition** |
| **Approved information** | means information that agency has approved for public release. |
| **Informal release** | involves providing access to information in response to a request for information, without requiring the requesting person to make an FOI request.[[1]](#footnote-1)  For example, by:   * arranging for inspection of registers and documents agency maintains; * answering enquiries from the public; * setting up online portals, administrative processes, or other ways for the public to ask for specific information without having to make an FOI request; or * responding to ad hoc requests for access to information from the public.   Sometimes agency may decide to release information informally, even where a formal FOI request has already been made. This can only be done with agreement from the applicant. |
| **Information** | means information, records or data as the case requires.[[2]](#footnote-2) |
| **Proactive release** | involves publishing information without agency being asked for it.[[3]](#footnote-3) For example, by:   * publishing information, reports, submissions, and other relevant information online (such as agency website or Data Vic); or * creating hard copy documents (for example, a brochure or information sheet) proactively and making them available on agency premises for the public to access. |
|  | [Insert other definitions as necessary] |

# Our commitment to public access to information and how we will use this Policy

## Agency commitment to public access to information

We are committed to being open and transparent by providing timely public access to the information we hold, outside of the FOI Act, through proactive and informal release.

In fulfilling this commitment, we will:

* establish, or use existing, systems to support public access to information;
* approve information for release in accordance with this Policy;
* outline to the public how we provide public access to our information outside of the FOI Act;
* regularly review and maintain this Policy to ensure we provide public access to the maximum amount of information.

## Guiding principles for using this Policy

Agency uses the following principles to guide how we facilitate public access to the information we hold under this Policy.

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| --- | --- |
| **Principle** | **More information** |
| **Access to information** | * Agency approves, empowers, and encourages employees to facilitate public access to information in accordance with this Policy. * Information held by agency is a public resource, and the public has a right to access it. |
| * Agency will make the maximum possible amount of information it holds available to the public quickly and inexpensively. |
| * Agency will reserve formal FOI requests as a last resort to access its information. |
| **Part access** | * Agency will provide access to as much information as possible, recognising that in some instances it may be required to provide part access to information (for example, by withholding or redacting some information). |
| **Availability and formats** | * Agency will facilitate access to information as soon as reasonably practicable, and otherwise in a timely manner. |
| * Agency will provide access to information in an alternative format (for example, PDF) or via an alternative channel (for example, via email or post) in response to reasonable requests. |
| * Agency will consider and respond to the information access needs of people from culturally and linguistically diverse communities and ensure that published information meets current web content accessibility guidelines. |
| **Currency** | * Agency will take reasonable steps to make sure the information it provides access to is current. |
| * Where agency publishes information online, it will take reasonable steps to maintain that information, including leaving the information online for a reasonable period of time. |
| **Cost** | * Agency will provide access to information free of charge under this Policy. |
| **Advice and assistance** | * Agency will take a transparent and helpful approach to individuals seeking access to information by providing reasonable advice and assistance. This may include assisting an individual to clarify the kind of information they are seeking or assist an individual to make a formal FOI request where information or documents cannot be released proactively or informally. |

# Proactively providing access to information

When we create and record information, we will consider whether it can be released publicly.

For example, we will:

* write for public release (for example, silo sensitive information, or prepare a summary of a report which might otherwise not be suitable for public release);
* use tools and systems to support public release of information such as by labelling information in document management systems or using metadata;
* consider whether information may be published on our website (for example, consultant reports);
* consider whether information may be suitable to be published as open data on [DataVic](https://discover.data.vic.gov.au/dataset/) in line with the [DataVic Access Policy](https://www.data.vic.gov.au/datavic-access-policy);
* consider whether information assets recorded in our Information Asset Register may be suitable for public release and update the register accordingly; and
* regularly consider whether information should be approved for public release under this Policy and listed in the Appendix.

When we receive requests for information (both informally and under the FOI Act), we will identify common information requests and determine whether we can release the commonly requested information outside of the FOI Act.

# Informally providing access to information

When we receive a request for access to our information, we will follow the process outlined below. All agency employees may use the process.

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| **Step 1** | **Has the person made an FOI request?**  Read the request and see if it refers to ‘FOI’ or the ‘FOI Act’.  If you are not sure, contact the FOI Unit as soon as possible. | **Yes**: send the request to the FOI Unit immediately (agency has 30 days to process an FOI request, which starts from the date the request is received by agency).  **No**: continue. |
| **Step 2** | **Does the request need to go to a different team/business unit?**  For example, consider the subject matter expert of the information. Is it a media request that needs to be forwarded to the Media Unit? Did another team create the information and therefore be better placed to handle the request? | **Yes**: send the request to the relevant team/business unit as soon as possible and let the person requesting the information know.  **No**: continue. |
| **Step 3** | **Does the request relate to approved information?**  If the request relates to approved information, you can provide access to it in accordance with any conditions noted in the Appendix. | **Yes**: facilitate access to the information in accordance with the Appendix in the Policy.  **No**: explain to the person requesting the information:   * why they cannot have access to the information outside of the FOI Act; * that they may make an FOI request for the information and direct them to the FOI unit or agency’s FOI form. * there is a fee to make an FOI request and any FOI decision to refuse access can be reviewed by application to the Office of the Victorian Information Commissioner (provide OVIC’s contact details if necessary).   Continue. |
| **Step 4** | **Consider whether the information should be approved for release** | Consider whether the information should be approved for release and contact the Policy owner accordingly. Read Approving information for public release, below, for more information. |

# Information approved for public release

The Appendix outlines the information that has been approved by agency for public release. If information is approved for release, agency can provide access to it in line with any conditions noted in the Appendix, without further approval to release the information.

## Approving information for public release

This part outlines who approves information for public release, how to recommend information for public release, and what kind of information should be approved for public release, including risks to consider.

### Who approves information for public release?

The Principal Officer approves information for public release. The Principal Officer may delegate this power to another officer or officers as outlined in this Policy.

To recommend information be approved for public release, contact the Policy owner noting:

* + the information to be approved;
  + any conditions to release (for example, the information can be released with personal information removed);
  + who the information owner is (this may be a particular team or business unit); and
  + how to release the information (for example, publish a copy on agency’s website or provide a copy to an individual on request).

The Policy owner will discuss the recommendation with the Principal Officer or person with delegated power to approve the information for public release.

### What information should be approved for public release?

When considering the extent to which information should be approved for public release, agency considers the type of information and its value to the public, and the risk of providing public access to the information.

For example, generally we will:

* **Always release** information which is of:
  + **public value** and **low risk**;
  + **public value** and **medium risk** which can be mitigated (such as by removing certain information, including an explanation or providing a summary);
* **Release on a case-by-case basis** information which is of:
  + **public value** and **higher risk** (which requires consideration based on the circumstances);
* **Consider not releasing** information which is of:
  + **low public value** and **high risk**.

How we consider the value of the information to the public and any risk in public release is outlined in more detail below.

#### Considering the type of information and its value to the public

When considering what kind of information may be suitable for public release, agency considers whether the information is:

* + valuable to the public;
  + regularly requested either outside the FOI Act or through FOI;
  + likely to affect the rights of, and services provided to, the public and to which the public may be subject to by government;
  + important to the digital economy;
  + important to government accountability and transparency;
  + already publicly available or was previously publicly available;
  + already routinely made available;
  + part of a request by an individual for their own personal information, including copies of correspondence they previously provided to agency;
  + part of a request for statistical information, reports or answers to specific questions;
  + information that would otherwise have been released in full if it had been processed as an FOI request; and
  + information that can be provided in another format, or in a summarised version, rather than being heavily redacted through a formal FOI process.

If the answer to any of these questions is yes, the information may be suitable for proactive or informal release. Agency also considers whether there are any risks in releasing the information, outlined below.

#### Considering any risk in publicly releasing information

When considering what kind of information may be suitable for public release, agency considers the following risk factors:

* **Prohibitions in other Acts**: secrecy or confidentiality provisions in other legislation which prohibit release of the information (for example, under the *Public Interest Disclosure Act 2012* (Vic));
* **Privacy**: personal information[[4]](#footnote-4) under the *Privacy and Data Protection Act 2014* (Vic) and its disclosure would breach the Information Privacy Principles;
* **Legal professional privilege**: confidential information communicated for the purpose of seeking or providing legal advice or for use in existing or anticipated litigation;
* **Law enforcement**: information that would prejudice the enforcement or administration of the law, identify a confidential source of information in relation to the administration of the law, disclose law enforcement or investigation methods or endanger the safety of persons engaged in law enforcement or individuals who have provided confidential information;
* **Cabinet documents**: information prepared for the purpose of submission for consideration by Cabinet or briefing the minister in relation to issues to be considered by Cabinet, or if it is a draft of a Cabinet document or contains any extract of such documents; or
* **Nature of the request for information**: if the request is complex, voluminous, or would take longer than 30 days to provide access to the information. These requests for information may be more suitable for processing under the FOI Act because the individual will receive review and complaint rights to the Office of the Victorian Information Commissioner.

If one or more of these factors apply, then the information may not be suitable for release in its entirety. However, before deciding, consider whether the relevant information can be removed, and the rest of the information released (either proactively or informally).

# Monitoring, evaluation, and review

The Policy owner will review this Policy regularly and at least every 12 months to:

* include additional approved information in the Appendix; and
* identify ways to improve how and when agency provides access to its information.

# Related policies and legislation

[List related policies and legislation as required]

# More information

## Policy owner

For more information on how to use this Policy, contact the Policy owner: [Insert contact details]

## FOI unit

If you have a question about the FOI Act, contact the FOI unit: [Insert contact details]

# Appendix – Table of approved information

The information in the Appendix will be made available on agency’s website, on request by a member of the public or via other means.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Information or document title** | **Owner of information or document (e.g., name of Business unit or team)** | **When public access can be provided (e.g., on request by an individual, routinely published on website)** | **Exceptions to release of information (information that may not be released)** | **How public access is provided (e.g., hard copy, by email, by inspection, publish on website, summarised form)** |
| *Example:* Regulatory Action Policy | Investigations and Assurance | Document is routinely published on OVIC website and can also be provided on request | No exceptions | Published on OVIC website |
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1. For more information on informal release, read OVIC’s [Informal Release of Information Practice Note](https://ovic.vic.gov.au/freedom-of-information/practice-notes/informal-release-of-information/). [↑](#footnote-ref-1)
2. The right of access under the FOI Act is to a document in the possession of an agency or an official document of a Minister (section 13 of the FOI Act). Since proactive and informal release may involve providing access to information as well as a document, this Policy refers to information in a broad sense. [↑](#footnote-ref-2)
3. For more information on proactive release, read OVIC’s [Proactive Release of Information Practice Note](https://ovic.vic.gov.au/freedom-of-information/practice-notes/proactive-release-of-information/). [↑](#footnote-ref-3)
4. See section 3 of the *Privacy and Data Protection Act 2014* (Vic) for the definition of ‘personal information’. [↑](#footnote-ref-4)