Responsibilities of principal officers under the FOI Act

Principal officers of agencies (generally departmental secretaries, agency or authority heads, chief executive officers and chairpersons) have responsibilities and specific obligations under the *Freedom of Information Act 1982* (Vic) (the Act) and the [Professional Standards](https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/professional-standards/) issued under Part IB of the Act.

These responsibilities and are summarised below. All legislative references are to the Act unless otherwise stated.

## Foster and support an organisational culture that advances the fundamental principles of the Act.

The principal officer and senior management have an essential role in ensuring the principles of the Act are supported and encouraged at all levels of the agency. The principles include:

* All business units and agency officers should be encouraged, at senior level, to consider whether documentation or information can be proactively published; it is not the sole responsibility of the freedom of information (FOI) officer or unit.
* The Act encourages and allows for the disclosure and publication of information, including information that is considered exempt under the Act – section 16.
* The application of exemptions is discretionary, not mandatory. Exemptions should only be claimed to protect essential public and private interests – sections 3 and 16.
* The public should have access to agency rules, policies and procedures that affect the Victorian public – Part II of the Act.

## Promote awareness and compliance with Professional Standards issued under Part IB of the Act.

The [Professional Standards](https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/professional-standards/) prescribe how a principal officer and agencies must discharge certain obligations under the Act. The Information Commissioner can receive and investigate complaints in relation to non-compliance with the Professional Standards.

The principal officer is ultimately responsible for ensuring the Professional Standards are complied with by agency officers. In particular, a principal officer must:

* comply with Professional Standards in performing functions under the Act – section 6W(1);
* ensure that any officer or employee of the agency concerned in the operation of the Act complies with any Professional Standards in performing the officer's or employee's functions under the Act – section 6W(2); and
* ensure that all officers and employees of the agency are informed about the requirements of the Professional Standards – section 6W(4).

## Ensure the agency has the necessary resources and procedures in place to be able to meet its statutory obligations under the Act.

FOI is an integral part of an agency’s business, and all agencies must have the necessary resources and procedures in place to be able to meet their statutory obligations under the Act. A principal officer is required to:

* ensure their agency is sufficiently resourced to receive and process requests within required statutory timeframes – Professional Standard 9.1(a);
* ensure their agency has the necessary software or systems to enable officers to process requests – Professional Standard 9.1(b); and
* ensure there are internal policies to enable officers to carry out their functions across the agency – Professional Standard 9.1(c).

## Provide training for agency officers and promote awareness of the Act and the agency’s obligations to all agency officers.

All agency officers have a duty to assist and cooperate in the FOI process and ensure the agency complies with its statutory obligations under the Act. To achieve this, a principal officer is required to:

* ensure, or be actively working towards ensuring, all officers who are responsible for responding to requests have the appropriate skills and training – Professional Standard 9.2;
* ensure all agency officers are informed about the agency’s statutory obligations under the Act – Professional Standard 9.4; and
* ensure all agency officers are aware they have a duty to assist and cooperate with officers who process requests under the Act – Professional Standard 9.5.

## Ensure agency information required by Part II of the Act is available to members of the public, and reviewed annually.

Information required to be published under Part II of the Act assists the public to understand the functions and operations of the agency, its rules, policies and procedures, and the types of other documents and information that are produced or held by the agency.

The principal officer and/or responsible Minister have a duty to ensure their agency has available on its website, information statements that detail the required information under Part II of the Act and these are reviewed and updated every 12 months – Sections 7, 8(2), 11(2), and Professional Standard 1.3.

## Decisions made under the Act must be done so by authorised officers.

A principal officer and officers of the agency may make decisions on behalf of the agency in relation to a request made under the Act. Where an officer of the agency makes a decision, they must be acting within the scope of authority exercisable by them in accordance with arrangements approved by the principal officer of the agency – section 26(1) and Professional Standard 9.3.