

Information Access Policy

Published 1 May 2016

© Commonwealth of Australia, 2016



Australian Government

Fair Work
OMBUDSMAN

Table of Contents

About this policy	3
Scope	3
Information Access Principles.....	3
Principle 1: We will release information when we can.....	3
Principle 2: We will communicate and be responsive	4
Principle 3: We respect people’s privacy and confidentiality	4
Accessing FWO information	5
How do I request information?.....	5
How will requests for information be handled?	6
Formal requests for information.....	8
Roles & Responsibilities	9
FWO Information Publication Scheme	9
FWO Disclosure Log.....	9

About this policy

The Fair Work Ombudsman (**FWO**) is an independent statutory agency created by the [Fair Work Act 2009](#) (the **FW Act**). The role of the FWO is to promote harmonious, productive and cooperative workplace relations, and to monitor, inquire into, investigate, and enforce compliance with relevant Commonwealth workplace laws.

This policy explains how FWO will deal with a request for information that is held/owned by us. FWO has discretion to release information it holds pursuant to section 718 of the FW Act. FWO also has obligations to comply with the [Freedom of Information Act 1982](#) (the **FOI Act**).

This policy is to be read in conjunction with the Information and Records Management Policy, the [FWO Privacy Policy](#) and the [APS Code of Conduct](#).

Scope

A request from an existing (or recent) customer that involves provision of information that would usually be exchanged in the normal course of customer service provision will not be considered an Information Access Request in this Policy – for example, if a customer asks for payslips or documents they have given us. It will be considered as business as usual and therefore not fall within the scope of this Policy.

Information Access Principles

Principle 1: We will release information when we can

We will endeavour to be as open as possible if you request access to information that we hold. There are certain provisions in the [FOI Act](#), the [Privacy Act 1988](#) (the **Privacy Act**) and other legislation that may restrict our ability to provide information upon request. Where we are unable to provide access to the requested information, an explanation of the decision will be provided and the rights of review will be explained.

We understand that it is time consuming for members of the public to make formal FOI requests. We are committed to keeping our [Information Publication Scheme](#) and [Disclosure Log](#) as up-to-date as possible and we will provide information without requiring a formal Freedom of Information (**FOI**) request where it is possible and lawful to do so.

Principle 2: We will communicate and be responsive

We will ensure that our process for providing access to information is straightforward, timely and easy for people to understand. We will work with you to ensure that when a formal FOI request is required we can provide you with the information you want in the most efficient and least costly way possible.

We will always provide applicants with details of their review rights within the FWO and to the Office of the Australian Information Commissioner (**OAIC**) or Commonwealth Ombudsman.

Principle 3: We respect people's privacy and confidentiality

We will maintain people's privacy and confidentiality in line with our obligations under the [Privacy Act](#), [Privacy Policy](#) and other legislation. Where a request for information may contain a third party's information we will consult (where practicable) with those parties prior to the information's release.

Prior to releasing information, unless we have a lawful obligation to do otherwise, we will delete personal information relating to others where it is apparent the information is not already known to the requesting party (such as addresses, phone numbers and email addresses).

If information has been provided to us under a mutual understanding that the information is confidential, we will not release the information without permission of the person who supplied it. If permission to release the information is not given, the FWO will inform the party requesting access to the information that they may make an application under the [FOI Act](#). The FWO will then consider whether the information can be released in accordance with the [FOI Act](#).

Accessing FWO information

We provide access to information in the following ways:

- **Proactive publication of information** that we publish under the [Information Publication Scheme](#) or through our [website](#) and [media releases](#)
- **Discretionary release** of information under s. 718 of the FW Act which gives the FWO power to release information when it is necessary or appropriate to do so
- **Formal release of information**, where information is not released under Discretionary release or is not publically available, and is provided in response to an application made under the [FOI Act](#)

We will assess requests for access to information with reference to the:

- [FW Act](#)
- [FOI Act](#)
- [Privacy Act](#)
- [Copyright Act 1968](#)
- [Privacy Policy](#)
- [OAIC's Guidelines](#)
- [APS Code of Conduct](#)
- Other legislation and guidelines (as applicable to each individual case)

How do I request information?

Who am I?	Who should I direct my request to?
<ul style="list-style-type: none"> ■ Are you a party to a Request for Assistance made to the FWO? 	<ul style="list-style-type: none"> ■ The FWO Officer you have been dealing with in relation to your matter
<ul style="list-style-type: none"> ■ Have you contacted the Infoline for advice or general information? 	<ul style="list-style-type: none"> ■ Phone Fair Work Infoline on 13 13 94
<ul style="list-style-type: none"> ■ Are you an employer selected for a compliance audit? 	<ul style="list-style-type: none"> ■ The FWO Officer you have been dealing with in relation to your compliance audit
<ul style="list-style-type: none"> ■ Are you a member of the public? 	<ul style="list-style-type: none"> ■ Send an email to foi@fwo.gov.au
<ul style="list-style-type: none"> ■ Are you a representative of a law enforcement body? 	<ul style="list-style-type: none"> ■ The FWO Officer responsible for the matter or send an email to foi@fwo.gov.au

	<ul style="list-style-type: none"> ■ Requests made will be assessed closely before disclosing personal information for law enforcement purposes
<ul style="list-style-type: none"> ■ Are you a representative of a Government agency or of an organisation with an MOU with FWO? 	<ul style="list-style-type: none"> ■ Send an email to ParliamentaryPolicy@fwo.gov.au
<ul style="list-style-type: none"> ■ FOI Requests 	<ul style="list-style-type: none"> ■ See Formal Requests for Information

How will requests for information be handled?

In deciding whether to grant access to information, FWO will have regard to section 718 of the [FW Act](#) and will consider the individual circumstances of each request.

Section 718(2) of the [FW Act](#) provides:

“The Fair Work Ombudsman may disclose, or authorise the disclosure of, the information if the Fair Work Ombudsman reasonably believes:

- (a) that it is necessary or appropriate to do so in the course of performing functions, or exercising powers, under this Act; or*
- (b) that the disclosure is likely to assist in the administration or enforcement of a law of the Commonwealth, a State or a Territory.”*

FWO reserves the right to refuse access to requested information, unless it is legally obliged to release it.

Certain information or documents will not usually be released by FWO under section 718 of the [FW Act](#). The following table provides an example of information or documents that may or may not be suitable for release.

Information which may be suitable for release

Information not suitable for release

- information and documents provided to the FWO by the requesting party or correspondence between the FWO and the requesting party
- workplace complaint and requests for assistance forms, and supporting documentation
- copies of documents that contain the personal information of the requesting party
- copies of any evidence provided by the other party to a matter (such as time sheets, pay slips, emails, and diary records relating to the requesting party)
- file notes of telephone conversations or interviews between the requesting party and the FWO (where a record of conversation is made) other than notes taken during mediation
- copies of correspondence between the FWO and other parties to the matter relating to the issues in dispute
- copies of any tribunal or court decisions or authority relied upon in making a decision
- call information from our Infoline in relation to the requesting party (includes call summaries and recordings)

- personal information relating to others¹
- notes taken and other communications that took place during or connected to a mediation (this is a confidential process)
- legal advice provided by the FWO's lawyers or by external legal providers
- information or documents relating to a matter that is currently before the courts (FWO action)
- documents containing deliberative content, such as recommendations currently under consideration, or internal case conference or briefing notes where a matter is still open or ongoing
- documents containing information which is likely to be a commercial value to a business

¹ Decisions about information release in these cases will be made in accordance with the *Privacy Act 1988* and FWOs Privacy Policy.

Formal requests for information

If the information you want can't be released in any of the ways outlined above, you can make an application under the FOI Act.

To make an FOI request

You need to put your request in writing to the Customer Feedback and Information Access Team via one of the following methods:

email - foi@fwo.gov.au

fax - (02) 6204 2364

post - GPO Box 9887 Melbourne VIC 3001

Include the following information:

- state that you're making an application under the [FOI Act](#)
- provide a specific and detailed description about the information or document you want, so we can identify it quickly
- provide contact details so we can communicate with you (e.g. email, postal, address, and telephone or fax number)

The [FOI Act](#) and the [Freedom of Information \(Charges\) Regulations 1982](#) allow FWO to charge for providing access to information or documents that do not contain the personal information of the FOI applicant. We will make information available at the lowest reasonable cost and will reduce the cost of public access by publishing information online, especially information that is routinely sought by the public. The [FOI Charges Fact Sheet](#) details when FWO will and won't charge, and the process to be followed.

FWO will let you know that we've received your FOI request by sending you a letter within 14 days of receipt and we'll send you a decision in writing within 30 days from the day after we get the request. It may take longer than 30 days if we have to consult a third party before releasing information or documents that have personal information about them, business information or trade secrets. FWO will let you know if timeframes are extended.

Your FOI request will be taken to have been withdrawn where the requested information has been released to you outside of the FOI Act (for example, under s. 718 of the FW Act or by other means).

We can lawfully refuse to release some information or documents, or parts of documents, if the FOI Act allows it.

This includes information or documents that:

- affect the enforcement of a law
- are given to us in confidence
- are subject to legal professional privilege

Information or documents that have business and personal information in them may not be released if it is contrary to the public interest.

Roles & Responsibilities

The decision to release information through a discretionary release will be made by the relevant Assistant Director, in conjunction with the FWO Officer responsible for the matter. Where the FWO makes a decision not to release the information, an individual may choose to make an application under the [FOI Act](#).

The Customer Feedback & Information Access Team are the first contact point for FOI requests made to FWO. In undertaking these functions, the Customer Feedback & Information Access Team and [FOI delegates](#) will follow the FWO's Information Access procedures and will be guided by the resources published by the OAIC.

FWO Information Publication Scheme

As required by the [FOI Act](#), we have an [Information Publication Scheme](#).

FWO Disclosure Log

In compliance with the [FOI Act](#), we will publish certain information or documents released in response to FOI requests in our [Disclosure Log](#) where appropriate.