



# Australian War Memorial

## Freedom of Information Policy

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## Introduction

This policy has been developed to assist anyone seeking to make an application to the Australian War Memorial under the Commonwealth [Freedom of Information Act 1982](#) (FOI Act), and to guide the Memorial's employees who may be involved in processing that application. The FOI Act also requires the Memorial to make information available to the public under the Information Publication Scheme.

This policy should be read subject to the provisions of the FOI Act and the [Freedom of Information \(Charges\) Regulations 1982](#) (Charges Regulations), and contains links to the legislation and references to the various sections. The policy should also be read in conjunction with [the FOI Guidelines](#) published by the Australian Information Commissioner pursuant to section 93A of the FOI Act and available at [www.oaic.gov.au](http://www.oaic.gov.au).

### *Right of access*

The FOI Act gives every person the right to:

- request access to documents held by the Memorial, other than exempt documents ([section 11\(1\)](#));
- request that a document held by the Memorial that contains personal information about the person which is incomplete, incorrect, out of date or misleading be amended or annotated ([section 48](#)).

The Memorial is required to provide access to documents that are requested. The only exception is if the documents (or parts of the documents) are exempt documents, or conditionally exempt documents and their release is not in the public interest. If the Memorial denies access it must give reasons and demonstrate why the document should not be released.

A person's right to seek access to a document under the FOI Act is not affected by their reasons for seeking access, or any view that the Memorial forms about their reasons ([section 11\(2\)](#)).

When handling an FOI request, it is also important to bear in mind the objects of the FOI Act. These are set out in [sections 3](#) and [3A](#) and include:

- to give the Australian community access to information held by the Government by requiring agencies to publish information and providing a right of access to documents;
- to promote Australia's representative democracy by contributing towards increasing public participation in Government processes, with a view to promoting better-informed decision-making, and increasing scrutiny, discussion, comment and review of the Government's activities;
- to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource;
- that functions and powers given by the FOI Act are to be performed and exercised, as far as possible, to facilitate and promote access to information, promptly and at the lowest reasonable cost
- that Parliament does not intend to limit any power of a Minister, officer or agency to provide access to information or documents outside of the FOI Act.

## Processing an FOI request

### *Receiving requests*

All FOI requests received by the Memorial should be referred as soon as possible to the Memorial's Governance Officer who is the Memorial's FOI Officer and has responsibility for managing the handling of FOI requests to the Memorial.

An FOI request must be in writing and must:

- state that the request is an application for the purposes of the FOI Act;
- provide such information concerning the document or documents requested as is reasonably necessary to enable a responsible officer of the Memorial to identify it; and
- give details of how notices under the FOI Act may be sent to the applicant (which may be as simple as providing a return email address) ([section 15\(2\)](#)).

Pursuant to [section 15\(2A\)](#) of the FOI Act, a request will be valid if it is delivered to the Memorial's specified email address ([foi@awm.gov.au](mailto:foi@awm.gov.au)) or delivered or posted to the Memorial's address specified on the Memorial's official website.

If a person wishes to make an FOI request to the Memorial, or the Memorial receives an FOI request that does not comply with the requirements of [section 15](#) of the FOI Act, the Memorial has a duty to take reasonable steps to assist the applicant to make a valid FOI request. This can include assisting the applicant to appropriately describe the document or type of document they seek.

### *Transferring requests*

If the Memorial receives a request for access to a document that would more appropriately be directed to another agency or Minister, the Memorial has a duty to assist the person who made the request to direct the request to the appropriate agency or Minister ([section 15\(4\)](#)).

The Memorial may transfer the request, or part of it, to the other agency or Minister, with their agreement ([section 16](#)). If the request is transferred, the other agency will not get any additional time to process the request. This means that if an FOI request is to be transferred, it is important that this be done as soon as practicable after receiving the request.

### *Current and former employees of the Memorial*

Current and former employees can obtain access to their employment record by contacting Head, Human Resources on 6243 4295 or by email at [executive@awm.gov.au](mailto:executive@awm.gov.au). [Section 15A](#) of the FOI Act requires that employees use this procedure before making a request under the FOI Act. An FOI request may then be made if the current or former employee is not satisfied with the response.

### *Who can make FOI decisions?*

The Director of the Memorial and persons the Director authorises in accordance with [section 23\(1\)](#) of the FOI Act may make FOI decisions. The current authorisation is available [here](#). The Governance Officer has responsibility for handling FOI requests and will most often be the initial decision-maker.

The authorised decision-maker is responsible for making decisions on the various aspects of the handling of the FOI request. Other Memorial officers may assist the authorised decision-maker. This may include assisting with the retrieval of documents, processing of the FOI request, drafting of reasons for decision or any other aspect of the decision-making process.

### *Scope of request*

It is important to carefully consider the scope of an FOI request at an early stage. The decision-maker and officers assisting them need to consider what type of documents might fall within the scope of an FOI request and where within the Memorial those documents may be located. This may include consideration of past and present document management systems of the Memorial and consideration of which Memorial personnel may have access to documents that may be within the scope of the request.

### *What is a 'document'*

'Document' is defined broadly in [section 4](#) as follows:

**document** includes:

*(a) any of, or any part of, the following things:*

*(i) any paper or other material on which there is writing;*

*(ii) a map, plan drawing or photograph;*

*(iii) any paper or other material on which there are marks, figures, symbols or perforations having meaning for persons qualified to interpret them;*

*(iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;*

*(v) any article on which information has been stored or recorded, either mechanically or electronically;*

*(vi) any other record of information; or*

*(b) any copy, reproduction or duplicate of such thing; or*

*(c) any part of such a copy, reproduction or duplicate;*

*but does not include:*

*(d) material maintained for reference purposes that is otherwise publicly available; or*

*(e) Cabinet notebooks.*

### *Documents already publicly available*

Some FOI applicants may seek access to a document or documents that are already publicly available. If all documents within the scope of an FOI request are already publicly available, the FOI applicant can be contacted and informed and invited to withdraw their FOI request. If so, the Memorial would not need to process the FOI request or make an FOI decision, and the applicant would not be liable for any FOI charges that might apply.

### *Giving access to part of a document*

Sometimes, only part of a document will be relevant to an FOI request. Where it is reasonably practicable to do so, the Memorial may delete the irrelevant parts and provide an edited copy to the applicant (deleting irrelevant and any exempt parts of the documents) ([section 22](#)).

### *Producing a document to satisfy the request*

Occasionally, it may be most efficient (with the applicant's agreement) for the Memorial to produce a document containing the information the applicant seeks and make a decision about the release of that document in response to the FOI request. The Memorial may be required to produce a document in response to an FOI request. [Section 17](#) of the FOI Act requires that where a valid FOI request is made for information not available in discrete form in written documents of the Memorial and the Memorial could readily produce a written document containing the information, then the Memorial should treat the FOI request as if it were a request for the document in its written form.

### *Documents that cannot be found or do not exist*

[Section 24A\(1\)](#) allows the Memorial to refuse a request for access to a document if the Memorial has taken all reasonable steps to find the document and is satisfied that the document does not exist, or is in the possession of the Memorial but cannot be found.

### *Refusal to process a request*

The Memorial may refuse to give access to documents if the work involved in processing the request would substantially and unreasonably divert the resources of the Memorial, or the documents requested are not adequately identified (see [section 24](#)). Whether to take this approach needs to be considered in the light of the objects of the FOI Act, which promote giving access to documents wherever possible, and a request may not be refused without giving the FOI applicant an opportunity to consult with the Memorial ([section 24\(1\)\(a\)](#)). Other alternatives to this approach should also be considered. For instance, it is often beneficial to contact the applicant to discuss the scope of their request and see if it can be narrowed, prior to undertaking a formal consultation process.

When considering whether the work involved in processing an FOI request would substantially and unreasonably divert the resources of the Memorial, [section 24AA](#) of the FOI Act requires that the decision-maker take into account the resources required for certain things, and provides that certain matters (such as any reasons that the applicant gives for requesting access) must not be taken into account.

The Memorial must undertake a request consultation process before making a decision to refuse to process a request. This requires the Memorial to provide a written notice to the applicant stating an intention to refuse and the reason, the name and contact details for the person within the Memorial with whom the applicant may consult, and that the period during which the applicant may consult with the contact person is 14 days from the day the applicant is given the notice ([section 24AB\(2\)](#)).

Ultimately, whether the processing of an FOI request might unreasonably divert the resources of the Memorial will be a question of fact to be determined on a case by case basis. The OAIC Guidelines, [paragraphs 3.111-3.121](#) give full details.

The consultation period can be disregarded for the purpose of calculating the time for processing the FOI request ([section 24AB\(8\)](#)).

## *Time frames*

There are various time limits that are imposed under the FOI Act and all officers working on FOI requests need to be aware of these, as well as the consequences of failing to comply with them.

### *Acknowledging an FOI request*

When the Memorial receives an FOI request, it is required to acknowledge receipt of the request within 14 days ([section 15\(5\)\(a\)](#)). This can be done by sending a brief letter or email to the applicant's postal or electronic address.

### *Standard time frame for processing an FOI request*

Usually the Memorial is required to make a decision in relation to an FOI request and notify the applicant of that decision within 30 days of the receipt of the FOI request.

However, in certain circumstances this time frame can be extended.

### *Extension of time for statutory third party consultation*

Where third party consultation is required under the FOI Act, for example in relation to documents affecting Commonwealth-State relations ([section 26A](#)), business affairs ([section 27](#)) or personal privacy ([section 27A](#)), the Memorial is entitled to an additional 30 days to process the request (see sections [15\(6\)](#) and [15\(8\)](#)).

### *Extension of time by consent*

The Memorial may, with the consent in writing of the FOI applicant, extend the period for processing the request for a further 30 days ([section 15AA](#)). As soon as practicable after any agreement is made to extend the time for processing an FOI request, the Memorial must provide written notice of the agreement to the Australian Information Commissioner.

### *Extension of time for complex or voluminous requests*

The Memorial may apply to the Australian Information Commissioner for an extension of time of 30 days, or such other period as the Australian Information Commissioner considers appropriate, if the FOI request is complex or voluminous ([section 15AB](#)).

### *Time to be disregarded*

If the Memorial makes a decision to impose a charge for the processing of the FOI request, the period commencing on the day the Memorial sends a notice to a person advising them of the intention to impose charges and ending on:

- the day the FOI applicant pays the charge or a deposit (including as changed upon review, if applicable); or
- the day that the Memorial decides, upon review, that no charge is payable

is disregarded for the purpose of calculating the time for processing the FOI request ([section 31](#)).

Likewise, any request consultation process period that takes place because the Memorial decides that a practical refusal reason exists is disregarded for the purpose of calculating time for the processing the FOI request ([section 24AB\(8\)](#)).

### *Consequences of failure to notify applicant of decision within the relevant time period*

Where the Memorial fails to provide a decision within these time frames, the applicant can treat the failure to make a decision as a "deemed refusal" ([section 15AC](#)) and can seek review of the decision on that basis. Further, any charge that may have been imposed under the Charges Regulations is reduced to nil and any deposit paid must be refunded ([reg 14\(b\)](#)).

### *Consultation*

The Memorial may need to consult other Commonwealth agencies or the Minister concerning an FOI request. There is no reason why the Memorial cannot consult more widely than is required by the FOI Act (subject, of course, to privacy and confidentiality considerations and requirements of other Acts). Whether such consultation will be necessary should be considered and consultation initiated at an early stage, as there is no extra time allowed to process the request for consultations within the Commonwealth.

In some circumstances, the FOI Act requires that the Memorial not provide access to a document without first consulting an affected third party. The circumstances in which this applies are described below.

### *Documents affecting Commonwealth-State relations*

[Section 26A](#) of the FOI Act requires that the Memorial must consult a State or Territory prior to providing access to a document where:

- There are arrangements in place between the Commonwealth and a State or Territory about consultation pursuant to [section 26A](#) (such arrangements are in place between the Commonwealth and all States and Territories);
- A request is made to the Memorial for access to a document that originated with or was received from a State or Territory or contains information that originated with or was received from the State or Territory, and
- It appears to the Memorial that the State or Territory may reasonably wish to contend that the document is conditionally exempt under [section 47B](#) and it would be contrary to the public interest for access to be provided to the document.

### *Business documents*

[Section 27](#) requires consultation to take place with a person or organisation prior to access being provided to a document in the following circumstances:

- where access is requested to a document that contains information that relates to the business or professional affairs of a person or information that relation to the business, commercial or financial affairs of an organisation or undertaking; and
- the Memorial forms the view that the person or organisation concerned might reasonably wish to contend that the document is exempt under [section 47](#) (trade secrets) or conditionally exempt under [section 47G](#) (business information) and access to the document would be contrary to the public interest.

In deciding whether a person or organisation may wish to contend that the document should not be released because of the business information it contains, the Memorial is required to have regard to the following matters:



- the extent to which the information is well known;
- whether the person, organisation or undertaking is known to be associated with the matters dealt with in the information;
- the availability of the information from sources that are publicly accessible; and
- any other matters that the Memorial considers relevant.

Consultation pursuant to [section 27](#) is only required where it is reasonably practicable for the Memorial to give the person or organisation concerned a reasonable opportunity to make submissions, having regard to all of the circumstances in the case. One of the circumstances that can be considered is the time limit for processing the FOI request. However, where possible, the decision-maker should consider early in the decision-making process whether consultation will be required, so that any consultation can be initiated at an early stage.

#### *Documents affecting personal privacy*

[Section 27A](#) of the FOI Act requires consultation to take place with a person prior to access being provided to a document if it appears to the Memorial that the person (or the person's legal representative if the person is deceased) may wish to contend that the document is conditionally exempt pursuant to [section 47F](#) and providing access to the document would be contrary to the public interest. In considering whether a person may wish to contend that the document is conditionally exempt and its release contrary to the public interest, the Memorial must have regard to:

- the extent to which the information is well known;
- whether the person to whom the information relates is known to be associated with the matters dealt with in the information;
- the availability of the information from sources that are publicly accessible; and
- any other matters that the Memorial considers relevant.

Consultation pursuant to [section 27A](#) is only required where it is reasonably practicable for the Memorial to give the person concerned a reasonable opportunity to make submissions, having regard to all of the circumstances in the case. Again, one of the circumstances that can be considered is the time limit for processing the FOI request. Where possible, the decision-maker should consider early in the decision-making process whether consultation will be required, so that any consultation can be initiated at an early stage.

#### *Requirement to take third party submissions into account*

The Memorial must have regard to any submissions or contentions made by an affected third party consulted under [sections 26A, 27](#) or [27A](#). However, the third party is not the decision-maker and cannot decide for the Memorial that access should not be given to a document. The decision-maker will need to balance all the various considerations, including but not limited to submissions received pursuant to third party consultation, and form their own conclusion.

#### *Third party review rights*

If an affected third party contends that access in full should not be provided to a document, the Memorial is required to provide to that third party a notice of its decision, with reasons, and setting

out the third party's review rights. Any such affected third party has 30 days to request internal review or review by the Australian Information Commissioner.

*Access not to be provided until third party review rights have expired*

If the Memorial makes a decision to provide access to a document in full or in part, and an affected third party has made contentions that access should not be provided to a document, the Memorial should not provide access to that document until the third party's review rights have expired.

*Privacy considerations*

The identity of an FOI applicant should not be disclosed without the applicant's express permission. To do so may breach the Australian Privacy Principles.

## Charges

There is no application fee required to be paid when a person makes an FOI request.

If the applicant only requests access to their own personal information, no charge may be imposed. However, except in the case of an FOI applicant only requesting access to their own personal information ([charges regulation 5\(1\)](#)), it is possible for the Memorial to impose a charge for processing an FOI request and providing access to documents.

The types and amounts of charges that apply to requests for access to documents and provisions of access to documents are set out in the schedules to the Charges Regulations available at the OAIC website. Any officer of the Memorial making a decision in relation to the imposition of charges should also have regard to [Part 4](#) of the Australian Information Commissioner's Guidelines, which deals with charges for providing access.

If the Memorial decides that an applicant is liable to pay a charge, it must send a notice to the applicant explaining that the person is liable to pay a charge and providing an estimate of the charge that may be imposed. The applicant will then have 30 days, which time can be extended by the Memorial, to notify the Memorial in writing that they accept the charges, or believe the charges have been wrongly calculated or incorrectly imposed, or that they withdraw the request ([section 29\(1\)\(f\)](#)). An applicant may contest the charge on public interest or financial hardship grounds, and further guidance on considering such matters is provided in the Australian Information Commissioner's Guidelines. If the applicant does not respond within time, the FOI request is deemed to have been withdrawn ([section 29\(2\)](#)).

Any charges that are imposed are not payable where the Memorial fails to notify an applicant of the decision in relation to an FOI request within the relevant time period for making the decision.

## Exemptions

While the FOI Act promotes the provision of access to documents wherever possible, the Memorial is not required to provide access to a document if the decision-maker considers it is exempt from release under the FOI Act, or conditionally exempt and its disclosure would on balance be contrary to the public interest.

If the Memorial considers that some information contained within a document is exempt, and access can be provided to other information in the document, the Memorial may provide access to an edited version of the document with exempt and irrelevant material deleted ([section 22](#)).

## *Considering exemption claims*

The decision-maker will need to consider each document relevant to a request and whether any exemption applies, and if so, whether the whole document should be exempt or whether the document can be redacted and access provided in part. The decision-maker will also need to consider whether any of the conditional exemptions may apply and, if so, whether it is contrary to the public interest for the conditionally exempt information to be released.

The decision-maker will also need to consider any consultation responses, but still needs to form his or her own view, taking into account all relevant factors including the consultation response.

## *Types of exemptions*

Exemptions are set out in sections 33 to 47A of the FOI Act and are best read in conjunction with the [relevant OAIC guidance](#):

- documents that affect national security, defence or international relations ([section 33](#))
- documents that are Cabinet documents ([section 34](#))
- documents that affect law enforcement and the protection of public safety ([section 37](#))
- documents to which secrecy provisions of Acts apply ([section 38](#))
- documents that are subject to legal professional privilege ([section 42](#))
- documents containing material obtained in confidence ([section 45](#))
- Parliamentary Budget Office documents ([section 45A](#))
- documents the disclosure of which would be contempt of Parliament or contempt of court ([section 46](#))
- documents that disclose trade secrets or commercially valuable information ([section 47](#))
- a document that is an electoral roll or copy or part thereof (except those parts that relate only to the applicant) ([section 47A](#))

## *Conditional exemptions*

### *Types of conditional exemptions*

There are a number of public interest conditional exemptions set out in sections 47B to 47J of the FOI Act. These too are best read in conjunction with the [relevant OAIC guidance](#):

- documents the disclosure of which might adversely affect relations between the Commonwealth and a State ([section 47B](#))
- documents the disclosure of which would disclose matters relating to the deliberative processes of an agency, a Minister or the Government of the Commonwealth ([section 47C](#))
- documents the disclosure of which would have a substantial adverse effect on the financial or property interests of the Commonwealth or of an agency ([section 47D](#))

- documents the disclosure of which would have a substantial adverse effect on certain operations of an agency ([section 47E](#))
- documents the disclosure of which would involve the unreasonable disclosure of personal information of any person ([section 47F](#))
- documents the disclosure of which would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation, where the disclosure of the information could reasonably be expected to have an unreasonable adverse effect on the person in relation to his or her business or professional affairs, or on the organisation in relation to its lawful business, commercial or financial affairs, or where the disclosure of information could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency ([section 47G](#))
- documents disclosing research the disclosure of which would unreasonably expose an agency or officer to disadvantage ([section 47H](#)), and
- documents the disclosure of which could reasonably be expected to have an adverse effect on Australia's economy ([section 47J](#)).

Access is required to be provided to documents that are conditionally exempt unless the decision-maker considers that it would on balance be contrary to the public interest to provide access ([section 11A\(5\)](#)).

### *Public interest test*

[Section 11B](#) of the FOI Act sets out some factors that favour access being granted and some factors that are irrelevant in determining whether release of a document would be contrary to the public interest.

Factors favouring access include whether access to the document would:

- promote the objects of the FOI Act
- inform debate on a matter of public importance
- promote effective oversight of public expenditure
- allow a person to access his or her own personal information.

Factors that are prohibited from being taken into account in deciding whether access to the document would be contrary to public interest are that:

- access to the document could result in embarrassment to the Commonwealth Government or the Government of Norfolk Island or loss of confidence in the Government;
- access to the document could result in any person misinterpreting or misunderstanding the document;
- the author of the document was of high seniority when the request was made; and
- access to the document could result in confusion or unnecessary debate.

Refer to the Information Commissioner's Guidelines for detailed information about [the public interest test](#).

## Notifying a decision and providing access to documents

### *Notice of decision*

Once a decision has been made, the Memorial needs to notify the FOI applicant in writing of the decision.

Where a decision is made not to grant access in full to all documents, the Memorial's decision-maker must provide reasons for the decision and notify the FOI applicant of their review rights ([section 26](#)). The statement of reasons must set out any findings of fact and state the material on which they were based and state the reasons for the decision. If there is a decision not to provide access to a conditionally exempt document, the decision-maker must state the public interest factors taken into account when making that decision. However, nothing in [section 26](#) requires that the Memorial disclose anything in the reasons that would be otherwise exempt. When discussing submissions of a third party who was consulted, the decision-maker will need to consider whether it is appropriate to disclose the identity of the third party, and if not, the reasons will need to be drafted so the identity of the third party is not disclosed.

Where the FOI request is a request for access to multiple documents, it is will usually be appropriate to prepare a schedule of documents.

Where statutory consultation with a third party has taken place, the third party also needs to be provided with a notice of decision with reasons.

### *Providing access*

The Memorial's policy is to provide FOI applicants with copies of any documents released in response to an FOI request, including edited copies where a document contains exempt or irrelevant material. If an electronic copy of a document is provided in circumstances where there are some redactions made, it is important the redactions are sufficiently secure and cannot be removed by the applicant to reveal the exempt content.

Other possible methods for providing access (see [section 20](#)) include:

- providing a reasonable opportunity to inspect the document
- where applicable, arranging for a person to hear or view sounds or visual images
- providing a written transcript.

[Subsection 20\(2\)](#) allows an FOI applicant to request access to documents in a particular form. If so, the Memorial may be required to provide access in that form. However, there are some cases when this is not required, including where providing access in the form requested would interfere unreasonably with the Memorial's operations.

It should also be noted that, in relation to documents to which access is to be given:

- if all applicable charges are paid and no consultation with third parties was conducted or there were no third party objections to release, access may be given at the time of the decision

- if charges remain outstanding at the time of the decision, access may be given once the charges are paid in full
- if there was third party consultation and a third party objected to release of a document or documents, access must not be given until after the third party's opportunities to seek review of the decision to release the relevant material expire.

## Publication requirements

### *Disclosure log*

The Memorial is required to publish information released pursuant to the FOI Act on its disclosure log, subject to exceptions where it would be unreasonable to publish the information. [Section 11C](#) of the FOI Act requires that if access is provided to a document, then within 10 working days from the day the person is provided access, the Memorial is required to publish the document on its disclosure log by making it available for download on its website, or providing a link from its website or otherwise indicating on its website how a copy of the document can be obtained.

The exceptions apply to documents that contain the following information:

- personal information about a person, if it is unreasonable to publish the information;
- information about the business, commercial, financial or professional affairs of a person, if it is unreasonable to publish the information;
- information of a kind that the Information Commissioner has determined by legislative instrument, if it is unreasonable to publish the information; and
- any information that is not reasonably practicable to publish because of the extent of any modifications made to the document.

In relation to the exercise of discretion in determining whether it would be unreasonable or not reasonably practicable to publish, ordinarily it would be expected no personal or business information would be published, and a document containing such information would not be published at all, unless it would be easy and not time-consuming to make minor modifications prior to publication.

## Review of decisions

### *Internal Review*

An FOI applicant may apply to the Memorial for internal review of an access refusal decision (see [section 53A](#)), which is essentially any decision on an FOI request that does not provide all documents in full to the applicant. Also, an affected third party (essentially, a person who has made submissions pursuant to one of the consultation provisions) can request internal review of an access grant decision (see [section 53B](#)), which is a decision to grant access (in full or in part) to a document in relation to which the affected third party made submissions.

An applicant can also request internal review of a decision to impose charges.

The Memorial's policy is that an internal review be conducted by a different person than the person who conducted the initial review, and be of at least the same or greater seniority. The person making any decision on the internal review is required to consider the request afresh.

Any request for internal review should ordinarily be made within 30 days of the day on which the decision was notified to the applicant. However, at its own discretion, the Memorial may accept a request for internal review after that time.

The applicant must be notified of a decision on internal review within 30 days of the request being received by the Memorial. If no decision is made within this time, the Director will be taken to have made a decision affirming the original decision ([section 54D\(1\) and \(2\)](#)). However, the Memorial can apply in writing to the Australian Information Commissioner for further time to conduct the internal review ([section 54D\(3\)](#)).

### *Review by Australian Information Commissioner*

An FOI applicant dissatisfied with an access refusal decision, or an affected third party dissatisfied with an access grant decision, may apply to the Australian Information Commissioner for a review of the decision ([Part VII](#)). This can be instead of internal review, or after internal review has taken place if the person is still dissatisfied with the decision.

Ordinarily, an application for review by the Australian Information Commissioner should be made within 60 days, in the case of an access refusal decision, or 30 days, in cases where an affected third party wishes to seek review of an access grant decision.

Review by the Australian Information Commissioner is intended to be informal and in many cases will proceed without a hearing. The review will be full merits review and therefore the Memorial will need to provide all relevant materials and documents to the Office of the Australian Information Commissioner. The Memorial is also required to provide notice of any application for Australian Information Commissioner review to third parties consulted for the purposes of the FOI Act.

### *Review by Administrative Appeals Tribunal*

A person who was a party to a review application before the Australian Information Commissioner can seek review of the Commissioner's decision in the Administrative Appeals Tribunal ([Part VIIA](#)).

## **Links to resources and further information**

[Freedom of Information Act \(1982\)](#)

[Freedom of Information \(Charges\) Regulations 1982](#)

[Information Commissioner FOI Guidelines](#)