

Compendium of information access laws across Australian states and territories

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	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Legislation	Freedom of Information Act 1982 (Cth) (FOI Act) Australian Information Commissioner Act 2010 (Cth) (AIC Act)	Freedom of Information Act 2016 (ACT) (ACT FOI Act)	Government Information (Public Access) Act 2009 (NSW) Government Information (Information Commissioner) Act 2009 (NSW)	Information Act 2002 (NT)	Right to Information Act 2009 (QLD)	Freedom of Information Act 1991 (SA)	Right to Information Act 2009 (TAS)	Freedom of Information Act 1982 (VIC)	Freedom of Information Act 1992 (WA) Note: the Information Commissioner Act 2024 (WA) and the Privacy and Responsible Information Sharing Act 2024 (WA) will amend the <i>FOI Act 1992</i> (WA). However, the relevant provisions related to information access have not yet commenced.
Objects	<p>FOI Act: To give the Australian community access to information held by the Government of the Commonwealth, by:</p> <ul style="list-style-type: none"> requiring agencies to publish the information; and providing for a right of access to documents. <p>AIC Act: Establishes the statutory office of the Australian Information Commissioner and prescribes the functions of the Commissioner which include freedom of</p>	<p>Provide right of access to government information unless, on balance, access would be contrary to the public interest.</p> <p>Recognise importance of public access to government information for the proper working of representative democracy.</p> <p>Enable public participation in government processes and promote improved decision-making.</p> <p>Promote accountability.</p> <p>Ensure that, to the fullest extent possible,</p>	<p>Open government information to be public by:</p> <ul style="list-style-type: none"> authorising and encouraging the proactive release of information by NSW agencies; giving members of the public a legally enforceable right to access government information; and ensuring that access to government information is restricted only when there is an overriding public interest against releasing that 	<p>Contains general principle of accountability for government information – states that public sector organisations are required to:</p> <ul style="list-style-type: none"> make available to the public such government information as is reasonably possible; provide government information to the public promptly; and assist the public to ensure that personal information is accurate, complete and 	<p>Provides right of access to government information unless contrary to the public interest.</p>	<p>Unqualified objects clause, followed by statement that the means by which the objects are to be achieved includes 'conferring on each member of the public and on MPs a legally enforceable right to ... access ... subject only to such restrictions as are consistent with the public interest (including maintenance of the effective conduct of public affairs through the free and frank expression of opinions) and the preservation of personal privacy'.</p> <p>Act states that nothing in the Act is intended to</p>	<p>To improve democratic government in Tasmania –</p> <ul style="list-style-type: none"> by increasing the accountability of the executive to the people of Tasmania; and by increasing the ability of the people of Tasmania to participate in their governance; and by acknowledging that information collected by public authorities is collected for and on behalf of the people 	<p>General right of access - limited only by exceptions and exemptions necessary for protection of essential public interests and private and business affairs of persons whose information is collected and held by agencies.</p> <p>Make available to the public, information about the operations of agencies, ensuring rules and practices affecting members of the public are readily available.</p> <p>Facilitate and promote, promptly and at the lowest reasonable</p>	<p>To enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public by:</p> <ul style="list-style-type: none"> Creating a general right of access to State and local government documents Providing means to ensure that personal information held by State and local government is accurate, complete, up to date and not

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	information functions, privacy functions and information functions.	government information is freely and publicly available to everyone. Facilitate and promote, promptly and at the lowest cost, disclosure of the maximum amount of government information. Ensure personal information held by the government is accurate, up-to-date and not misleading. (s6)	information. (s3)	up-to-date. The Act also protects the privacy of personal information held by public sector organisations (s3(b)). Act does not prevent/discourage public sector organisations from publishing, or providing access to government information (including exempt information) or correcting personal information, otherwise than under this Act if it is proper to do so or is required or permitted by law to be done. But public sector organisations are not required to provide access to government information if it is not in the public interest to do so.		prevent or discourage the publication of documents, the giving of access to documents or the amendment of records otherwise under the Act if it is proper and reasonable to do so or if it is permitted or required by any other Act or law.	of Tasmania. Discretions conferred by the Act to be exercised so as to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information. (s3) A person has a legally enforceable right to be provided with information in the possession of a public authority or Minister unless the information is exempt information. (s7)	cost, the disclosure of information. (s3)	misleading • Requiring that certain documents concerning State and local government operations be made available to the public (s3).
Sectors	Australian Government Agencies with certain exclusions. Australian Government Ministers and Assistant Ministers (s11 FOI Act). 'Prescribed	Government agencies (s15) Administrative unit Statutory office-holder and staff Territory authority (excluding judicial council, law society) Territory	Government agencies Ministers and officers Local councils State owned corporations Contractors through contract arrangements	Government agencies Government business divisions Person/body declared by the regulations to be a public sector organisation (s5) Appointed or	Government department Ministers and staff or consultants (s13) Local Government Government Owned Corporation	Government ministers Persons who hold offices established by an Act Administrative units of the Public Service SA Police	State Government agencies Ministers Local Government Statutory Authorities State and Council owned	Government agencies incl. Departments, local councils, Universities, Police (s5) 'Prescribed authority' (s5) = body corporate established for a public	Most WA State government agencies, including departments, authorities, boards and commissions Ministers Local government agencies

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	<p>authority' (s4(1) FOI Act):</p> <ul style="list-style-type: none"> body corporate or unincorporated body established for a public purpose NBN Co any other body declared by the regulations a person holding an office or appointment under an enactment or Order in Council that is prescribed in the regulations <p>Norfolk Island authorities (s4(1) FOI Act)</p> <p>Restricted application to courts and court registrar (s5 FOI Act)</p> <p>Restricted application to tribunals (s6 and sch 1 FOI Act)</p> <p>Restricted application to the Governor-General and Official Secretary to the Governor-General (s6A FOI Act)</p> <p>An agency if contracted to perform functions or exercise</p>	<p>instrumentality</p> <p>Territory-owned corporations</p> <p>Territory-owned corporations, subsidiary of a Territory-owned corporation</p> <p>Office of the Legislative Assembly</p> <p>Officers of the Legislative Assembly</p> <p>Supreme Court</p> <p>Magistrates Court</p> <p>ACT Civil and Administrative Appeals Tribunal</p> <p>Board of inquiry</p> <p>Judicial commission</p> <p>Royal commission</p> <p>Government Ministers (s14) (excludes information relating to a Minister's personal or political activities / created or received by a Minister in the Minister's capacity as a member of the Legislative Assembly).</p>	<p>(s121)</p> <p>Universities</p> <p>Public authorities (s4)</p> <p>Courts (s4)</p> <p>Excludes bodies identified in sch 2 (legislative assembly, committee of either or both of these bodies, royal commission, special commission of enquiry are NOT a 'public authority' for the purposes of the NSW Act).</p>	<p>established under an Act (s5)</p> <p>Holding an office under an Act (s5)</p> <p>Local city and town councils, shire councils, agencies</p> <p>Statutory or government owned corporations</p> <p>Contractors</p> <p>Courts or tribunals other than judicial functions and decision-making functions</p> <p>NT police force</p>	<p>Subsidiary of a Government</p> <p>Owned Corporation (s14)</p> <p>Public Authority (including universities, hospital and health services)</p> <p>Excluded bodies and particular functions of bodies to which this Act does not apply (s17, Sch 2, part 1 and Sch 2, part 2)</p>	<p>Councils</p> <p>Bodies established or continued in existence for a public purpose by an Act; bodies subject to control or direction by the Governor, a Minister or other instrumentality or agency of the Crown or a council, regional and council development assessment panels.</p> <p>Act does not apply to Parliament or parliamentary committees (s 5A), nor to the judicial functions of courts and tribunals (s 6).</p> <p>Some agencies are specifically exempt. Certain information held or compiled by non-exempt agencies is specifically exempt. (Schedule 2 to the Act and <i>Freedom of Information (Exempt Agency) Regulations 2023</i>).</p>	<p>companies and Government Business Enterprises</p> <p>Public Authorities including Tasmania Police and the University of Tasmania</p> <p>Excludes certain persons and bodies (courts and tribunals, parliament, integrity agencies, state legal bodies etc), unless the information relates to the administration of the relevant public authority (s6)</p>	<p>purpose per the Act or body unincorporated by the Governor in Council or by a Minister</p> <p>= any other body, whether incorporated or unincorporated, declared by the regulations.</p> <p>Some bodies, offices and appointments are expressly excluded from definition of 'prescribed authority' (s5)</p> <p>Official documents of Ministers (s5)</p> <p>Act does not apply to documents in the possession of IC relating to a review, complaint or investigation (s6AA)</p>	<p>Public universities</p> <p>Private sector providers of custodial services including prisons and prisoner transport</p> <p>(see definitions of 'agency', 'public body or office' and 'contractor' in the Glossary to the FOI Act).</p> <p>Some agencies, or parts of agencies, are specifically exempt (Sch. 2).</p> <p>Restricted application to courts and tribunals - only documents related to matters of an administrative nature (clause 5 of the Glossary).</p>

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	<p>powers of the agency (s6C FOI Act)</p> <p>Note:</p> <p>Excludes certain persons and bodies (s7 and sch 2 FOI Act)</p> <p>Documents to which access is not able to be obtained (s12 FOI Act)</p> <p>No access to documents of certain institutions (s13 FOI Act)</p>								
Jurisdiction	<p>Right of amendment or annotation (ss 48, 50 FOI Act).</p> <p>Internal review decision (ss 53A, 53B FOI Act).</p> <p>Australian Information Commissioner review of agency and Minister's decisions (Part VII FOI Act).</p> <p>Complaints and own motion investigations (s69 FOI Act).</p> <p>Vexatious applicant declarations (s89K FOI Act).</p> <p>Merits review/appeal to the Administrative Review Tribunal (s 57A FOI Act).</p>	<p>External merits review of decisions made by agencies on open access information, access applications and amendment applications (s82, Schedule 3).</p> <p>Monitor the operation of the ACT FOI Act, including the publication of open access information and compliance with Chief Minister's annual statement under s95 and with the Act generally.</p> <p>Investigate complaints about an agency or Minister's action, or failure to take action, in relation</p>	<p>Reviewable decisions (s80)</p> <p>Complaints (s17 GIIC)</p> <p>Investigation of agency systems, policies and practices (s21 GIIC)</p>		<p>Internal review of decisions by agency (s80)</p> <p>External merits review of decisions by Information Commissioner (s85)</p> <p>Investigate and review decisions of agencies and Ministers (s130)</p> <p>Performance monitoring, including audit (s131)</p> <p>Financial hardship decisions (s67)</p> <p>Vexatious applicant declarations (s114)</p> <p>Reference of questions of law to the Queensland Civil</p>	<p>Right to internal review of original determination (unless original determination made by or at the direction of the principal officer of the agency). (s29(6))</p> <p>Right to seek amendment of agency records (s30). Right to seek annotation if amendment is not made (s37).</p> <p>Agency may refuse to deal with application if it is part of a pattern of conduct that amounts to abuse of right of access or is made for a purpose other than to obtain access to information.</p>	<p>External merits review of decisions to apply exemptions or refuse applications (s44)</p> <p>Other applications for review in certain circumstances including sufficiency of search, deemed refusal of decisions not made within statutory timeframes and appeals by third parties objecting to the proposed release of certain information (ss 45 & 46)</p> <p>Ombudsman can apply to the Supreme Court</p>	<p>Review access and amendment decisions made by agencies and Ministers (s49A)</p> <p>Handle complaints (s61A)</p> <p>Develop (s6U), publish (s6V), and monitor compliance (s6W) with professional standards</p> <p>Report on operation of the Act (s64)</p> <p>Conduct own motion investigations (s61O)</p>	<p>External merit review of agency decisions on access and amendment applications (s63).</p> <p>Make decisions on other applications in relation to timeframes for agencies to deal with access applications and the requirements to consult third parties (s63).</p> <p>See also 'Functions and Role of the Information Commissioner' section.</p>

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	Appeal on a question of law to the Federal Court of Australia (s 56 FOI Act).	to any functions under ACT FOI Act (s 69). See also 'Functions and Role of the Information Commissioner' section.			and Administrative Appeals Tribunal (s118)	(s18(2a)). Right to external review by the Ombudsman. (s39). Merits review to the SA Civil and Administrative Tribunal (SACAT). (Agencies may only seek review on a question of law.) (s40).	on a question of law. No further review right in Tas RTI Act to tribunal or court after an Ombudsman external review decision		
Publication	<ul style="list-style-type: none"> Require information publication scheme (Part II, Div 2 FOI Act) 	<p>Proactive disclosure of 'open access information' (s 24) unless the information is contrary to the public interest information.</p> <p>If open access information is not made available because it is contrary to the public interest information, agency or Minister must publish a description, grounds for non-release, statement of reasons, statement about review rights (subject to exceptions e.g. endanger life).</p>	<p>Requires mandatory proactive release of 'open access information' (s6, s18) including:</p> <ul style="list-style-type: none"> an agency information guide; certain information tabled in Parliament; agency's disclosure log of its access applications; register of government contracts; and record of information not made available. <p>Additional open access requirements (GIPA Regulation, cl 4, 6, 6A) for:</p>	<ul style="list-style-type: none"> Publication of specified information (s11) 	<ul style="list-style-type: none"> Requirement for policy documents to be publicly available and a publication scheme to set out the classes of information available and the terms on which they are available, including charges Publish a disclosure log with details of information sought and disclosed (s78) 	<ul style="list-style-type: none"> Publication of specified information (s9) The Department of the Premier and Cabinet Circular 45 – Disclosure Logs for Non-Personal Information Released through FOI (PC045) requires state government agencies to publish non-personal information that has been released under the Freedom of Information Act 1991 (FOI Act) to their 	<ul style="list-style-type: none"> Promotes the proactive release of information by public authorities and Ministers and provides for 4 types of disclosure, required, routine, active and assessed Information disclosure policy is required (s23(1)) Processes in place must comply with the guidelines issued by the Ombudsman (s49) 	<ul style="list-style-type: none"> Publication of specified information (s7) Publication of the fact an agency possesses certain types of documents (ss 8, 11) 	<p>Requires publication of an up-to-date information statement containing specified information including a description of the kinds of documents usually held by the agency (ss94 & 96).</p> <p>Requires public availability for inspection and purchase of agencies most up-to-date information statement and each of its internal manuals (ss95 & 97).</p> <p>Requirements do not apply to Ministers or 'exempt agencies'.</p>

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			<ul style="list-style-type: none"> Ministers; Government Departments; Statutory bodies; and Local councils. 			websites.			
Oversight		ACT Legislative Assembly ACAT (for Ombudsman review decisions)	Joint Parliamentary Committee (s44 GIIC)		Legal Affairs and Community Safety Committee (s189)	Crime and Public Integrity Policy Committee	Joint Standing Committee on Integrity at Parliament of Tasmania	Integrity and Oversight Committee of Parliament Integrity Oversight Victoria (re coercive powers)	Standing Committee on Public Administration, Legislative Council, WA Parliament
Functions and Role of Information Commissioner	Information Commissioner, FOI Commissioner and Privacy Commissioner functions (under AIC Act ss 8, 9 and 10, the FOI Act (e.g., s.8F) and Privacy Act 1988 (e.g., Part IV)). Information Commissioner functions - Report to the Minister on any matter that relates to the Commonwealth Government's policy and practice regarding information held by the Government and systems (s7 AIC Act); information commissioner functions, freedom of information functions and	<p>Review decisions made by ACT Government agencies and Ministers (s82).</p> <p>Grant extensions of time (s42, s78).</p> <p>Monitor operation of the ACT FOI Act, including the publication of open access information (s64(1)(c)).</p> <p>Make open access declarations (s65).</p> <p>Make guidelines (s66).</p> <p>Prepare annual report on the operation of the ACT FOI Act (s67).</p> <p>Investigate complaints (s69).</p>	<p>Promote public awareness and objects of Act (s17)</p> <p>Produce annual reports (s36 GIIC)</p> <p>Report following investigation – to Minister, principal officer, Secretary DPC (s24 GIIC)</p> <p>Provide information, advice, assistance and training to agencies (s17).</p> <p>Assist agencies including services to assist with lodgement, handling and processing of applications (s17)</p> <p>Issue guidelines and publications to assist agencies and the public (s17)</p>	<p>Promote public awareness of Act objects</p> <p>Produce annual reports</p> <p>Produce special reports at the direction of the Minister</p> <p>Develop and issue guidelines about FOI access and correction and privacy for public sector</p> <p>Provide training and advice on the provisions of the Act</p> <p>Assess proposed legislation and relevant policies</p> <p>Conduct audits of records held by PSOs for compliance</p> <p>Research and monitor FOI and privacy</p>	<p>Promote greater awareness of operation of the Act</p> <p>Provide guidance on interpretation and administration of Act</p> <p>Provide information and assistance to agencies, applicants and third parties with access applications</p> <p>Monitoring application of the public interest test</p> <p>Commissioning external research and surveys to monitor achievement of the Act's stated objectives</p> <p>Identifying and commenting on legislative and</p>	<p>The SA Ombudsman is the relevant review authority in relation to determinations made under the FOI Act (s39(1))</p> <p>Ombudsman must make annual report on work of the Ombudsman's office to be laid before both Houses of Parliament (s 29 of <i>Ombudsman Act 1972</i>.)</p> <p>Minister administering the Act must make an annual report to Parliament (s54)</p> <p>Minister administering the Act must, in consultation with the Ombudsman, develop and maintain appropriate</p>	<p>Conduct independent, external merits review of public authority decisions. May publish these decisions and the associated statement of reasons</p> <p>Issue guidelines and manual, and provide advice to public authorities on the process of disclosure and in relation to the operation of the Act generally (s49)</p> <p>Provide training on the operation of the Act</p> <p>Ombudsman must make annual report on the exercise of their functions (s30 of the <i>Ombudsman</i></p>	<p>Promote understanding and acceptance of the Act and the objects of the Act by agencies and the public (s61)</p> <p>Report annually on operation of the Act (s64)</p> <p>Provide advice on the operation of the Act, to a Minister, if requested (s61)</p> <p>Conduct reviews (s49A)</p> <p>Handle complaints (s61A)</p> <p>Conduct own motion investigations (s61O)</p> <p>Provide advice, education and guidance to agencies in relation to compliance with the professional</p>	<p>Commissioner's main function is to deal with applications for external review ('complaints') of decisions made by agencies on access and amendment applications under the Act.</p> <p>Commissioner provides independent merits review of agency decisions (s63).</p> <p>Other functions include:</p> <ul style="list-style-type: none"> Ensuring agencies are aware of their responsibilities and the public are aware of their rights under the Act Providing assistance to

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	privacy functions (s.10 AIC Act) Functions prescribed under the FOI Act (s8 FOI Act): <ul style="list-style-type: none"> • promote public awareness of Act objects; • assist agencies to publish information; • provide information, advice, assistance and training; • issue guidelines; • make reports and recommendations to Minister re legislative change or administrative action; • monitoring, investigating and reporting on agency compliance; • review decisions; • investigations; • collect information/statistics about FOI matters for s30 annual report; and • other functions conferred on 		Review decisions of agencies and monitor, audit and report on the exercise by agencies of their functions under, and compliance with, the Act (s17) Provide reports and recommendations to the Minister (s17) Receive notice, issue guidelines and models in connection with agency information guides (s22) GIIC or other Acts (s14 GIIC and agency head GSE; PFA Act) Produce reports annually on operation of GIPA (s37 GIIC) Special report to Parliament (s38)	developments elsewhere Make public statements about relevant FOI and privacy matters Deal with FOI and privacy complaints Grant ss 81 & 81A authorisations to collect, use or disclose info in a manner inconsistent with or contravene IPPs Approve by gazettal a Code of Practice (s73) Serve PSOs with a compliance notice (s82)	administrative changes to improve administration of the Act Decide applications for extensions of time; Decide applications for financial hardship; Making varying or revoking declarations under s114 and s115 (s129) External review functions - investigating and reviewing decisions of agencies and Ministers (s130) Performance monitoring functions - including reviewing and reporting on agencies compliance with the RTI and IP Act; Issue guidelines (s132) Issuing guidelines on various matters including interpretation and administration of the Act Report to Parliament on matters relating to a particular external review	training programs to assist agencies in complying with this Act (s54A) State Records of South Australia assists the Minister to administer the legislation (general advice, drafting policy, guidelines, information sheets, training government agencies)	<i>Act 1978</i> Investigate complaints or conduct own motion investigations under the <i>Ombudsman Act 1978</i> which relate to information access matters but could not be the subject of an external review application	standards (s6l) Develop, monitor compliance with, and review professional standards (s6l) Provide advice, education and guidance to agencies and the public regarding the Information Commissioner's functions (s6l) Report to integrity and oversight committee (s64A)	members of the public and agencies on matters relevant to the FOI Act <ul style="list-style-type: none"> • Imposing reductions in time and allowing extensions of time for agencies to deal with applications under the FOI Act • Giving approvals to give access to documents without consulting third parties in certain circumstances (s63). Commissioner must report annually to Parliament on the operation of the Act and operations of the Commissioner during the year (s111). Commissioner must publish decisions in full or in an abbreviated, summary or note form, as is appropriate to ensure that the public is adequately informed of the grounds on which decisions are

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	<p>the Information Commissioner by the FOI Act or other legislation</p> <p>(ss 8 and 11 AIC Act)</p> <p>Review of the information publication scheme (s8F FOI Act)</p>								made (s76(8)).
Powers of Compulsion and Procedures	<p>Informal and lowest reasonable cost objective (FOI Act objects s3, procedures s55).</p> <p>Conduct an IC review in whatever way the Commissioner considers appropriate (s55(2)(a) FOI Act).</p> <p>Give notice to require the agency or Minister to provide an adequate statement of reasons pursuant to s26(1) FOI Act (s55E FOI Act)</p> <p>Give notice for a person to give information of a kind specified in the notice or to produce document/s</p> <p>specified by the notice (ss 55R, 55S FOI Act)</p>	<p>Grant decision-makers' extensions of time to process access applications (s42, s78).</p> <p>Declare that information is open access information (s65).</p> <p>Make guidelines (s66).</p> <p>In undertaking a review, the Ombudsman is entitled to full and free access at reasonable times to all relevant government information of the agency or Minister concerned (s68).</p> <p>Require a person to give information relevant to Ombudsman review (s79).</p> <p>Direct decision-maker, agency,</p>	<p>General procedures, informality, substantial merits, determine procedures, not bound by rules of evidence (s15 GIIC)</p> <p>Dealing with a complaint: information; discussions; facilitate direct resolution; investigation (s19 GIIC)</p> <p>Require an agency to produce information, records, or other things (s25 GIIC)</p> <p>Entry powers (s26 GIIC)</p> <p>Prevent contravention - standing to apply for an injunction and judicial review (s28 GIIC)</p> <p>Formal enquiries - powers conferred</p>	<p>Commissioner is entitled to full and free access at all reasonable times to the records or other things of a PSO (s87(d))</p> <p>Staff must assist public to exercise their rights under the Act but must not give legal advice (s88)</p> <p>Commissioner may delegate any powers or functions but not without the approval of the Minister (s89)</p> <p>Commissioner has the power to compel evidence (s110A)</p> <p>Commissioner must not disclose exempt information in reports, decisions</p> <p>or any other form (s102)</p> <p>Commissioner can refer</p>	<p>Early resolution (s90)</p> <p>Procedures within discretion of the IC, little formality and technicality, not bound by the rules of evidence (s95)</p> <p>Give directions to external review participants (s95(2))</p> <p>Adopt procedures that are fair; ensure opportunity for participant to present views (s97(2)(a) and (b))</p> <p>Preliminary enquiries (s98)</p> <p>Require better reasons (s99)</p> <p>Access to documents (s100)</p> <p>Require access in a particular form (s101),</p> <p>Require search</p>	<p>In conducting a review, the Ombudsman may carry out an investigation into the subject matter of the application (and may exercise the investigative powers conferred on the Ombudsman by the <i>Ombudsman Act 1972</i>, including powers of a Commission as defined in the <i>Royal Commissions Act 1972</i>) (s38(5)(a))</p> <p>In any proceedings concerning a determination made by the agency under the Act, the burden of establishing that the determination is justified lies on the agency (s48)</p> <p>In conducting a</p>	<p>Ombudsman has full and free access to the records of a public authority or Minister that are related to an application for review and may require that access to be in a particular form (s47(2))</p> <p>Power to examine witnesses, direct decisions be made by public authorities or Ministers, direct better reasons to be provided and that the Ombudsman's decisions are to be implemented within a certain period (s47(1))</p> <p>Power to decide any matter in relation to the original application for information that could be decided by the relevant</p>	<p>General power to do all things necessary or convenient (s6K)</p> <p>Functions and powers to be exercised with little formality and technicality (ss6G, 6H)</p> <p>Reviews bound by rules of natural justice (s49H)</p> <p>Power to require further search for documents in a review (s49KA) or complaint (s61GA)</p> <p>Investigation must be conducted in private (61P)</p> <p>Commissioner may compel a person to produce documents or attend an examination, during a review (s49KB), complaint (s61I) or investigation</p>	<p>Commissioner has the power to do all things that are necessary or convenient to be done for or in connection with the performance of functions (s64).</p> <p>Commissioner may obtain information from such persons and sources, and make such investigations and inquiries, as thinks fit (in order to deal with an external review) (s70).</p> <p>External review proceedings conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Commissioner permit.</p>

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	<p>Require a principal officer of an agency to produce documents that are claimed to be exempt (s55T FOI Act)</p> <p>May only require the principal officer of an agency or a Minister to produce a document they claim is exempt under the national security exemption (s33), Cabinet documents exemption (s34) or Parliamentary Budget Office documents exemption (s45A) if the Commissioner is not satisfied by affidavit or other evidence that the document is exempt (s55U FOI Act)</p> <p>May order an agency or minister to undertake further searches for documents (s55V FOI Act)</p> <p>Compel a person to appear before him or her (s55W FOI Act)</p> <p>Require evidence be given on an oath or affirmation (s55X FOI Act)</p>	<p>or Minister to conduct further searches for information (s80).</p> <p>Facilitate informal resolution of review matters (s80A).</p> <p>Require parties to attend mediation to resolve review matter (s 81).</p> <p>Refer questions of law to the ACT Civil and Administrative Appeals Tribunal (ACAT) (s83).</p>	<p>on a Royal Commission for IC and witnesses</p> <p>Furnish info to IC - IC may furnish information to Ombudsman; ICAC; DPP; PIC; and agencies (ss 31-33 GIIC)</p>	<p>application back to PSO and require a further review of its internal review decision (s103(2))</p> <p>CEOs have a duty to ensure their organisation complies with the standards of records (and archives) management which must be prepared and reviewed in consultation with or with the input from the Commissioner (ss 137, 138 and 139)</p>	<p>(s102)</p> <p>Require information, documents and attendance (s103)</p> <p>Examining witnesses (s104)</p> <p>Additional power to review any decision made by agency or Minister regarding the access application (s105)</p> <p>IC to ensure nondisclosure of particular information (s108)</p> <p>Requirement to assist during review (s96)</p> <p>IC must include reasons for decision (s110)</p>	<p>review, the Ombudsman may require agency to sort or compile documents (if agency has failed to do so) or undertake consultations relevant to the review that should have been undertaken (s38(5)(b))</p> <p>Ombudsman must notify applicant, agency and interested persons of determination and reasons for decision (s38(13))</p>	<p>public authority or Minister (s47(1)(k))</p> <p>The public authority or Minister has the onus to show that information should not be disclosed and it is open to the Ombudsman to determine the outcome of the review on the basis that this onus has not been discharged (s47(4))</p> <p>If the Ombudsman intends to make a decision in relation to a review which is adverse to a public authority or Minister, must make available a draft of that decision and seek input before finalising it (s48(1)(a))</p>	<p>(s61P). Coercive powers (Part VIC)</p> <p>Evidence in examination required to be given on oath or affirmation (s61ZE)</p> <p>Commissioner must report to Integrity Oversight Victoria, after issuing, varying or revoking notice to produce or attend (s61ZD)</p> <p>Commissioner or agency may apply to Supreme Court to determine jurisdiction to serve notice to produce or attend (s63BA)</p>	<p>Commissioner:</p> <ul style="list-style-type: none"> • is not bound by the rules of evidence • has to ensure that the parties to an external review are given a reasonable opportunity to make submissions to the Commissioner • may determine the procedure for investigations and dealing with an external review and give any directions as to the conduct of the proceedings • must provide reasons for decision <p>(ss 70 and 76).</p> <p>Parties to an external review may be represented. Commissioner's decisions are legally binding (s76).</p>

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
	Investigation powers (Part VII B FOI Act) Declarations of vexatious applicants (s89K FOI Act)								
Review Powers Specific review powers by Information Commissioner	IC reviewable decision – access refusal decisions (s54L FOI Act) and access grant decisions (s54M FOI Act) An agency or Minister must comply with an IC review decision (s55N FOI Act) On receiving an FOI request, the agency or Minister must no later than 14 days after the day the request is received, take all reasonable steps to notify the applicant that the application has been received (s15(5)(a)) FOI Act) The Commissioner has IC review functions (Part 7 FOI Act). The Commissioner can make a decision to affirm, vary, or set aside and substitute an access refusal or access grant decision of an	The Ombudsman can review decisions: <ul style="list-style-type: none">to make / to not make open access information publicly available under s24(1)to give access to government information under s35(1)(a)that government information is not held under s35(1)(b)to refuse access to government information under s35(1)(c)to refuse to deal with an access application under s35(1)(d)to refuse to confirm or deny government information	Reviewable decision (s80) IC power of recommendation in relation to reviews (ss92, 93, 94) and general procedure (s95) Making of a review application s89 (GIPA) Onus on agency to justify (s97(1)) Onus on applicant to establish entitlement to reduction in processing charge (s97(3)) Onus on 3rd party applicant to justify non release (s97(2)) IC refusal to entertain frivolous, vexatious, misconceived, lacking in substance; or review would require unreasonable and substantial diversion of resources; failure without	90 days for applicants to complain to OIC from the date of PSO's internal review notification; 60 days to appeal to the Supreme Court on a matter of law only 28 days for referral to NTCAT for hearing on application by the Respondent, when complaint is substantiated but not resolved by mediation (s112A(2)) or on application from the Complainant when the matter is dismissed (s112A(1)(b))	Reviewable decision (defined in Schedule 6) Request for review must be made within 20 business days from the date of the written notice of the decision (or within the longer period the IC allows) (s88) Affirm, vary or set aside and substitute decision (s110) IC may decide not to review or further deal with all or part of external review application (s94) IC may require further and better reasons for decision (s99), and may require a search (s102) or attendance or production of documents (s103) and may examine witnesses (s104). On own motion IC may declare an applicant vexatious (s114)	Review determination of agency to refuse to deal with an application (s18). Review of determination of agency to refuse access (s20). Review of agency's determination to refuse to amend records (s35). Review of agency's determination to refuse to add notation to records (s37). On application for external review the Ombudsman may confirm, vary or reverse the determination the subject of the review (s38(11)). Ombudsman cannot make a determination that access is to be given to an exempt document but may offer reasons as to why an agency might give access to the document	External review of agency decision on internal review (s 44). External review where: initial decision made by Principal Officer of Minister and therefore internal review not available; the agency or Minister has made a decision that the requested information does not exist or is not in possession, where insufficiency of search; and where no decision has been made within the stipulated time (s45(1)). Review of delayed decision as a deemed refusal (s46)). External reviews can be determined on application from third parties in relation to a determination to release information relating to their	May review decision of agency or Minister to refuse access, defer access, not waive or reduce application fee, or not amend a document (ss49A, 49F) Must notify agency or Minister of application for review (s49D) May provide agency or Minister with copy of application for review, with consent of applicant (s49D) May choose to not accept or dismiss a review at any stage if – frivolous, vexatious, etc., failure to cooperate, more appropriate to go to Tribunal, review not appropriate in circs, unable to contact applicant or with applicant's agreement (s49G) Agency or	In dealing with an external review, the Commissioner may: <ul style="list-style-type: none">obtain information and make inquiriesdetermine the procedure for investigating and dealing with external reviews and give directions as to the conduct of proceedingssuspend inquiries, investigations or other proceedings so that efforts can be made to resolve the external review by conciliation or negotiationgive directions and do such other things as Commissioner thinks fitnominate a person to act as a conciliatorrequire the production of information or

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
	<p>agency or Minister (s 55K FOI Act).</p> <p>The Commissioner may make preliminary inquiries (s54V FOI Act).</p> <p>The Commissioner may decide not to undertake or continue a IC review if the IC review applicant is frivolous, vexatious, misconceived, lacking in substance or not made in good faith (s54W(a)(i) FOI Act); applicant's failure to cooperate in progressing application or without reasonable excuse (s54W(a)(ii) FOI Act); applicant un-contactable after making all reasonable attempts (s54W(a)(iii) FOI Act); failure to comply with a direction of the Information Commissioner (s54W(c) FOI Act)</p> <p>Decide not to undertake or continue an IC review if the Information</p>	<p>is held under s35(1)(e)</p> <ul style="list-style-type: none"> to refuse to amend personal information under s61(1)(b) <p>The Ombudsman can require a person to give information relevant to a review (s79).</p> <p>The Ombudsman can direct an agency or Minister to conduct further searches (s80).</p> <p>The Ombudsman may refer a question of law to the ACT civil and Administrative Appeal Tribunal (ACAT) (s83(2)).</p> <p>A review participant may appeal the Ombudsman's decision to the ACAT within 20 working days of the Ombudsman's decision (s84).</p>	<p>reasonable excuse of co-operate with IC; inability to contact application (s96)</p>		<p>Vary or revoke vexatious declaration (s115)</p> <p>IC may refer a question of law on external review to the Qld Civil and Administrative Tribunal.</p>	<p>despite its exempt status (s38(12)).</p> <p>Ombudsman may publish reasons for a determination, if Ombudsman considers it is in the public interest or the interests of the agency to do so (s38(14)).</p> <p>Ombudsman may comment on any unreasonable, frivolous or vexatious conduct on the part of applicant or agency (s38(16)).</p> <p>Ombudsman has power to review a fee or charge imposed by an agency under s53 FOI Act (and in accordance with the Freedom of Information (Fees and Charges) Regulations 2003.). A person can seek a review of an agency's determination of a fee or charge.</p> <p>A person dissatisfied with the agency's review may seek a further review from the Ombudsman.</p> <p>The Ombudsman may waive, vary, confirm or</p>	<p>personal affairs or that is likely to expose them to competitive disadvantage (ss44, 45)</p> <p>Ombudsman may refer application back to agency for decision; promote settlement of an application, decline to continue where the applicant fails to comply with a direction; require that further or better reasons for decision be given; and decline a review on the grounds that it is vexatious or lacking in substance (s47(1)).</p>	<p>Minister must assist Commissioner (s49I)</p> <p>Must conduct reviews in a timely, efficient and fair manner, with little formality and technicality (s49H)</p> <p>Must give parties opportunity to make written submissions (s49H)</p> <p>May extend time to make decision on review, with applicant's agreement (s49J)</p> <p>Preliminary enquiries (s49K)</p> <p>Power to require further search for documents (s49KA)</p> <p>May issue notice to produce or attend (ss49KB, Part VIC)</p> <p>May refer back to agency or Minister for fresh decision (s49L)</p> <p>Must try to informally resolve review, where reasonably possible (s49N)</p> <p>Power to refer matter arising in review to a 'relevant authority' (s49O)</p> <p>Notice of decision</p>	<p>documents</p> <ul style="list-style-type: none"> require a attendance before the Commissioner to answer questions examine a person under oath or affirmation give directions or do things necessary to avoid the disclosure of exempt matter or the existence or non existence of certain exempt matter require an agency to conduct additional searches review any decision made by the agency in relation to the access application and decide any matter in respect of the access application that could have been made by the agency confirm, vary or set aside agency decision <p>(ss 71 – 76 & 26)</p> <p>Commissioner's</p>

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	<p>Commission is satisfied that the interests of the administration of the FOI Act make it desirable that the IC reviewable decision be considered by the ART (s54W(b) of the FOI Act).</p> <p>Decide not to investigate a complaint made under s 70 (s73 FOI Act)</p>					vary the fee or charge and/or give directions as to the payment for a fee or charge (s53(4)).		<p>must set out reasons (s49P)</p> <p>Commissioner's decision has same effect as decision of agency or Minister (s49P)</p>	<p>decision must be in writing</p> <p>May decide not to deal with an external review application or to stop dealing with the external review application because it is frivolous, vexatious, misconceived or lacking in substance (s67).</p> <p>No power to make a decision to the effect that access is to be given to an exempt document (s76).</p>
<p>Time Frames</p> <p>Review by the Information Commissioner i.e. maximum days to escalate matter (external review)</p>	<p>An application for IC review of an 'access refusal' decision (s 54L) must be made within 60 days after the notice of the IC reviewable decision was given (s54S(1) FOI Act)</p> <p>An application for IC review on an 'access grant' decision (s 54M) must be made within 30 days after the notice of the IC reviewable decision was given (s54S(2) FOI Act)</p> <p>An FOI applicant or an affected third party may ask the IC for an extension of time</p>	<p>An application for Ombudsman review must be made within 20 working days after the day notice of the decision was published in the disclosure log (s74(1)) / the day notice was given to the applicant / the day the decision was taken to be made (deemed decision).</p> <p>Ombudsman can grant an extension of time (s74(1)(b)).</p> <p>Ombudsman must make a decision on the review within 30 working days (s82) after the</p>	<p>Review by Information Commissioner – application to be made within 40 working days after notice of the decision given to the applicant (s90)</p> <p>An agency's decision as to the validity of an application must be made and notified to the applicant as soon as practicable after the agency receives the application and in any event within 5 working days after the application is received. (s51(2))</p> <p>Review by the</p>	<p>Applicant has 90 days after reviewing the notice to make a complaint to Information commissioner (s41(b))</p>	<p>Application for external review must be made within 20 business days from the date of the written notice of the decision (or within the longer period the IC allows) (s88(1)(d))</p> <p>No time limit on IC to complete a review, but informal resolution encouraged and proceedings must be conducted with as little formality and technicality and expedition as possible (s95(2))</p>	<p>Person aggrieved by a determination of an agency following an internal review may apply to the Ombudsman for a review of the determination (s38)</p> <p>Application must be made within 30 days after the person received notification of the determination (s38(3)).</p> <p>Ombudsman has a discretion to extend time (s38(4)).</p> <p>Application to review an agency's determination</p>	<p>Application must be made within 20 working days from the date a reviewable decision is received. If no decision is received within statutory timeframes, a review request must be made within 20 working days from the time the timeframe elapsed (ss44(1) and 45(3)).</p> <p>There is no power to extend time.</p> <p>The Ombudsman must use their powers to resolve an application for review as soon</p>	<p>Application for review must be received within 28 days after the day on which notice in writing of agency or Minister's decision is given (s49B)</p> <p>Commissioner may accept an out-of-time review application (s49B)</p> <p>Commissioner must complete review within 30 days, or longer period agreed in writing with applicant (s49J)</p>	<p>Application for external review to be lodged within 60 days after being given written notice of the internal review decision (if access applicant) or within 30 days if a third party (s66).</p> <p>Commissioner to make a decision on an external review within 30 days after the external review application was made unless the Commissioner considers that it is impracticable to do so (s76).</p> <p>Agencies must deal with an access application as soon as</p>

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	to apply for IC review (s54T FOI Act)	day the application for Ombudsman review was made; or if notice to produce information given (s 79) – the end of the period in notice. Ombudsman can suspend review for up to 30 working days if Ombudsman first assists parties to informally resolve matter or refers parties to mediation (s82(3)).	Information Commissioner must be completed within 40 working days after the Commissioner receives all information the Commissioner considers necessary to complete the review. (s92A)			must be made within 30 days after notice of the decision (s39(3))	as practicable after receipt and, if the matter cannot be resolved, issue a decision as soon as practicable on the application (s47(6))		practicable or within the “permitted period” - 45 days or as agreed between the applicant and the agency or as allowed by the Commissioner (s13). If applicant does not receive a notice of decision with the time frames outlined in the Act, they can seek the next level of review (internal or external).
Complaints Management and Dispute Resolution Powers/ Functions	Investigate complaints against agencies in the performance of their functions under the FOI Act (ss69(1) and 70), including making preliminary enquires (s72 FOI Act) and discretion over deciding not to investigate if satisfied of various conditions (s73 FOI Act) Commissioner initiated investigations (s69(2) FOI Act) Transfer of a complaint to Commonwealth Ombudsman, if appropriate (s74 FOI Act)	Investigate complaints against agencies or Minister’s in the performance of their functions under the ACT FOI Act (s69). The Ombudsman can direct an agency or Minister to conduct further searches for information (s80). The Ombudsman may assist a respondent and applicant to a review to resolve the matter informally (s 80A). The Ombudsman can refer a matter for mediation and require parties to attend (s81).	Making of a complaint s17 (GIIC) Assist resolution, investigate, refer. Dealing with a complaint: information; discussions; facilitate direct resolution; investigation (s19 GIIC) Require an agency to produce information, records, or other things (s25 GIIC) Entry powers (s26 GIIC) Prevent contravention - standing to apply for an injunction and judicial	Complaints may be dealt with jointly (s104A) Accept, reject or refer a complaint back to the PSO within 90 days (s106) Refer a complaint to Ombudsman, Health Complaints Commission or interstate Privacy Commissioner (s108) Investigate an accepted complaint (s110) Decide on the release of 3rd party information Decide whether there is sufficient prima facie	IC functions are merits review not complaint management. Alternative dispute resolution encouraged through informal resolution IC refusal to deal with all or part of external review application if frivolous, vexatious, misconceived, lacking in substance; failure to comply with direction by IC; failure to cooperate in progressing the external review application without reasonable	Ombudsman may try to effect a settlement between participants to the review (s38(5)(c)(i)) At request of agency, may suspend review to allow an opportunity for a settlement to be negotiated (s38(5)(c)(ii)) Agency and applicant must cooperate in the process (including attempts of Ombudsman to effect a settlement) (s38(7)) Ombudsman may dismiss an application if	No complaints function under the RTI Act, but information access related complaints can be made under the <i>Ombudsman Act 1978</i> . The Ombudsman does not have power, however, to investigate a matter under the Ombudsman Act if it could be the subject of review under the RTI Act ((s47(3)). Ombudsman can promote settlement of an application for review, identify opportunities for early resolution including conciliation, and give directions in	Commissioner may handle complaints re action taken or failed to be taken by agency, agency delay, agency decision that document does not exist or cannot be located, and some actions of Ministers (s61A) Complaint must be made within 60 days after action or conduct complained of. Commissioner may accept out-of-time complaint (s61A) May refer complaint to another body if more appropriate to deal with	Commissioner is not given express power to investigate expressions of dissatisfaction about the way that an agency has dealt with an access application except as it relates to an external review before the Commissioner. Commissioner may use conciliation dealing with external review applications.

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	<p>Power to make investigation recommendations (s 88 of the FOI Act)</p> <p>If not satisfied with implementation of a recommendation under s88, Information Commissioner may issue a written 'implementation notice' (s 89), and may report to the Minister responsible for the agency in question (s89A)</p>		<p>review (s28 GIIC)</p> <p>Formal enquiries - powers conferred on a Royal Commission for IC and witnesses</p> <p>Furnish info to IC. IC may furnish information to Ombudsman; ICAC; DPP; PIC; and agencies (ss 31-33 GIIC)</p>	<p>evidence of the matter complained of</p> <p>Notify parties with a written prima facie decision</p> <p>Refer matter to mediation as a precondition to a Tribunal proceeding if not already referred to mediation during process of investigation</p> <p>Conduct the mediation and provide mediation certificate (s111)</p> <p>Refer a complaint to the Tribunal after receiving an application from the Complainant (s112A(1)) or application from the Respondent (s112A(2)), both of which must be made within 28 days of receiving the decision to dismiss or if not resolved by mediation or other agreement respectively</p> <p>Commissioner must refer the complaint to the Tribunal (s112A(5)) and prepare a written report within 60 days of the referral (s112B)</p>	<p>excuse; inability to contact applicant (s94); substantial and unreasonable diversion of resources (s41); previous application for same documents (s43)</p>	<p>applicant has failed to comply with s38(7) (s38(8)).</p> <p>Ombudsman might conciliate a complaint or investigate an administrative error on the part of an agency administering the FOI Act under provisions of the <i>Ombudsman Act 1972</i>.</p>	<p>this regard ((s47)).</p>	<p>(s61C)</p> <p>May decide not to accept or dismiss complaint at any stage (s61B)</p> <p>Must dismiss complaint if subject matter has been or can be dealt with as a review (s61B)</p> <p>Must give written reasons if complaint dismissed (s61B)</p> <p>Must notify agency or Minister if complaint is accepted, and provide copy of complaint (s61D)</p> <p>Agency or Minister must cooperate with Commissioner (s61E)</p> <p>Complaint must be dealt with in private (s61F)</p> <p>Power to conduct preliminary enquiries and consult with parties (s61G)</p> <p>Power to require further search for documents (s61GA)</p> <p>Must take reasonable steps to resolve informally</p>	

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								<p>(s61GB), and conciliate if cannot be resolved (s61H)</p> <p>If conciliation unsuccessful, must allow parties to make submissions, must deal with complaint with little formality and technicality (s61I).</p> <p>May compel agency or Minister to produce documents or attend an examination (s61I)</p> <p>Power to make recommendations (s61L)</p>	
Regulatory Powers and Delegation	<p>Under s25(1) of the AIC Act, the IC may delegate, in writing, his or her functions or powers to a member of staff of the Office of the Australian Information Commissioner other than:</p> <ul style="list-style-type: none"> • preparing the Annual Report • issuing Guidelines • referring a question of law to the Federal 	<p>Under s64(2) of the Act, the Ombudsman may delegate their powers and functions to a person mentioned in s32 of the <i>Ombudsman Act 1989</i> (ACT).</p>	<p>IC may delegate any function to staff or persons authorised through regs (s13 GIIC)</p> <p>Monitor, audit, report (s17)</p> <p>Education & advice (s17)</p> <p>Issue statutory guidelines and other publications (ss17, 22)</p> <p>Review agency decisions (s17)</p> <p>Report and recommend to</p>	<p>Commissioner may delegate powers and functions under the Act but must not do so without the approval of the Minister (s89)</p> <p>May require a PSO to answer a question, produce a record, or other thing (s87(e)).</p> <p>Commissioner has the power to compel evidence (s110A)</p> <p>Commissioner can refer application back to PSO and</p>	<p>IC may delegate to a member of staff of OIC all or any of the commissioner's powers (s145)</p>	<p>Ombudsman may delegate powers under section 9 of the <i>Ombudsman Act 1972</i>.</p>	<p>Ombudsman may delegate powers pursuant to s10 of the <i>Ombudsman Act 1978</i>.</p>	<p>IC functions (ss 6G, 6I(1))</p> <p>Deputy Commissioner functions, incl reviews and complaints (ss 6H, 6I(2))</p> <p>IC may delegate functions and powers to DC, except power to employ staff, power of delegation, powers re reviews and complaints, and reporting obligations (s6R)</p>	<p>Commissioner may, in writing, delegate to a member of staff the performance of any of the Commissioner's functions, except: the powers to:</p> <ul style="list-style-type: none"> • require the production of the disputed documents • make a decision in relation to an agency's decision • review exemption

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	<p>Court under s55H of the FOI Act</p> <ul style="list-style-type: none"> correcting errors in an IC review decision under s55Q implementing notices and reports under ss89 and 89A of the FOI Act making a vexatious applicant declaration under s89K of FOI Act. <p>In addition, certain functions may only be delegated to an OAIC staff member who is an SES employee:</p> <ul style="list-style-type: none"> making an IC review decision under s55K of the FOI Act exercising discretion not to investigate a complaint under s73 of the FOI Act notifying on completion of an investigation under s86 of the FOI Act. 		Minister proposals for legislative and administrative changes (s17)	require a further review of its internal review decision (s103(2))				<p>With consent of IC, DC may delegate any of the DC's functions and powers to any member of staff, except power to make a review decision, make recommendation re complaint, and delegation power (s6R)</p> <p>IC may issue directions to DC or any member of staff re performance of functions, except review of a decision or consideration of a complaint (s6S)</p>	<p>certificates</p> <ul style="list-style-type: none"> delegate <p>(ss75, 76, 77 & 79).</p> <p>Governor may appoint an Acting Commissioner, where the Commissioner is on leave or unable to perform the functions of the office (s59).</p>
Offence Provisions and Protections	<p><u>Offences:</u></p> <p>Contravention of s55R obligation to produce information and documents. 6 months</p>	<p>Knowingly making a decision contrary to the Act (ss 89 – 100 penalty units).</p> <p>Intentionally giving direction to</p>	<p>Unlawful access (s119)</p> <p>Concealing or destroying (s120)</p> <p>Protection breach of confidence,</p>	<p>A person must not conceal or dispose of govt info to prevent access or correction</p>	<p>Unlawful access to document (s176)</p> <p>Disclosure or taking advantage of information</p>	<p>Protection against criminal actions with respect to giving access to a document (if person by whom determination is made honestly</p>	<p>A person must not deliberately obstruct or unduly influence a principal officer, a Minister, a delegated officer or the</p>	<p><u>Protections for agencies, Ministers and persons:</u></p> <p>No defamation or breach of confidence for</p>	<p>It is an offence for a person to gain access to a document containing personal or business information about</p>

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	<p>imprisonment (s55R(5) FOI Act)</p> <p>Contravention of s55W obligation to appear before the Information Commissioner, 6 months' imprisonment (s55W(3) FOI Act)</p> <p>Contravention of s 55X answering truthfully under oath or affirmation. 6 months imprisonment (s55X(3) FOI Act)</p> <p>Failure to comply with a notice issued under s 79 by the Information Commissioner. 6 months imprisonment (s79(5) FOI Act)</p> <p>Failure to comply with a notice issued under s82 by the Information Commissioner, 6 months' imprisonment (s82(3) FOI Act)</p> <p>Contravention of s83 answering truthfully under oath or affirmation (s83(3) FOI Act)</p> <p><u>Protections:</u></p> <p>Claim of legal professional privilege to documents or information</p>	<p>someone else who is required to exercise a function of the Act, contrary to the Act (ss 90 - 100 penalty units).</p> <p>Failing to identify information (s92 – 100 penalty units).</p> <p>Improperly influencing the exercise of a function under the Act (ss 93 - 100 penalty units).</p> <p>Gaining unlawful access to government information through deceit or misleading a person exercising a function under the Act (ss 94 - 100 penalty units).</p>	<p>defamation (s113) criminal action (s114), personal liability (s115)</p> <p>Obstruct; hinder; resist; make false statements; mislead (s43(2) GIIC)</p> <p>Immunity of IC and others (s42;45 GIIC)</p> <p>No powers to bring offence proceedings (s28(6) GIIC)</p> <p>Acting unlawfully (s116)</p> <p>Directing unlawful action (s117)</p> <p>Improperly influencing (s118)</p> <p>Falsely represent IC or staff; cause inflict or procure violence, punishment, damage, disadvantage; dismiss any employee, prejudice any employee's employment (s43 GIIC)</p>	<p>Person must:</p> <ul style="list-style-type: none"> not breach confidentiality provisions of s148; not knowingly provide false or misleading info; not without reasonable excuse obstruct, hinder or fail to comply with Commissionere r. 	<p>(s179)</p> <p>Protection defamation or breach of confidence (access s170 and publication s171 RTI Act); (s171);</p> <p>Criminal (access to document s172 and publication s173); personal liability (s174)</p> <p>False or misleading information (s177)</p> <p>Direction to employee to act in particular way (s175)</p> <p>Failure to produce documents or attend proceedings (s178)</p> <p>Protection for defamation or breach of confidence actions for agency officers if access to documents granted or publication made under Act (ss170 and 171)</p> <p>Protection from criminal responsibility if access granted or publication made under Act (s172)</p> <p>Protection from</p>	<p>believes that the Act permits or requires the determination to be made) (s51)</p> <p>Protection in respect of actions for defamation or breach of confidence in certain cases (s50).</p> <p>Immunity from liability for Ombudsman or staff for any act or omission in good faith (s30(1) <i>Ombudsman Act 1972</i>).</p> <p>It is an offence to obstruct the Ombudsman in the performance of investigative powers under the Ombudsman Act (s24 <i>Ombudsman Act 1972</i>).</p> <p>If Ombudsman or SACAT forms opinion that there is evidence that a person, being an officer of an agency, has been guilty of a breach of duty or of misconduct in administration of the act, may bring evidence to the notice of appropriate person with a view to disciplinary action being taken</p>	<p>Ombudsman in the exercise of the power to make decisions (s50(1)).</p> <p>A person must not deliberately fail to disclose the subject of an application where that person knows the information exists, other than where non-disclosure is permitted under the RTI Act or another act (s50(2)).</p> <p>Principal Officers, Ministers and the</p> <p>Crown are protected against actions for defamation or breach of confidence where information has been provided as required or permitted by the Act or where the officer or Minister authorised its release in the belief that it was required to be provided (s51).</p> <p>Where information has been provided in the circumstances referred to above, no person concerned in providing the information, is guilty of a</p>	<p>giving access to document (s62)</p> <p>No criminal offence for giving or authorising access (s63)</p> <p>No personal liability for making complaint in good faith (s63B)</p> <p><u>Protections on documents:</u></p> <p>Special protections for IC to access cabinet, national security and law enforcement documents (s63D)</p> <p>IC and others not compellable to produce documents (s63A)</p> <p>IC must ensure only specified person has access to exempt documents produced in review, complaint or investigation (s63E).</p> <p><u>Offences:</u></p> <p>Criminal offence for specified person to intentionally or recklessly disclose exempt document to non- specified person, other than agency who</p>	<p>another person by deceit (s109).</p> <p>It is an offence for a person to conceal, destroy or dispose of a document to prevent access to it (s110).</p> <p>Officers of an agency are protected from defamation, criminal liability and personal liability if they act in good faith (ss104-107).</p> <p>Commissioner and his or her staff are protected from personal liability for an act done or omitted to be done in good faith (s80).</p> <p>It is an offence for the Commissioner or his or her staff to disclose confidential information or take advantage of it for their own benefit (s82).</p> <p>It is an offence for an agency to fail to produce information or documents, attend before the Commissioner or attend conciliation (s83).</p>

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	<p>produced for the purpose of an IC review (s55Y FOI Act)</p> <p>Protection for persons from liability in the IC review process (s55Z FOI Act)</p> <p>Protection from liability relating to documents produced for an investigation (s85 FOI Act)</p> <p>Protection from civil action in investigations under s 70 (s89E FOI Act)</p> <p>General protection against civil liability (s90 FOI Act)</p> <p>Protection against civil liability in particular situations (s91 FOI Act)</p> <p>Protection against criminal liability (s92 FOI Act)</p>				<p>civil liability to agencies, Ministers and OIC if action or omission made honestly and without negligence under Act (s174)</p>	<p>(s39(17), s42).</p> <p>A person acting honestly and, in the exercise, or purported exercise of functions under the Act incurs no civil or criminal liability in consequence of doing so (s52)</p>	<p>criminal offence by reason only of the provision of the information or authorising that provision (s52).</p> <p>If a complaint or investigation about information access is being handled under the <i>Ombudsman Act 1978</i> any person who (without lawful justification or excuse) obstructs, hinders, resists, fails to comply with a lawful requirement or gives false or misleading information to the Ombudsman, an officer of the Ombudsman or a conciliator in performance of their functions is guilty of an offence (s27)</p>	<p>produced the docs. Penalty: 240 penalty units or 2 years prison or both. (s63E)</p> <p>Failure to comply with notice to produce or attend. Penalty: 60 penalty units. (s61X)</p> <p>Failure to take oath or affirmation. 60 penalty units. (s61ZE)</p> <p>Offence to obstruct, mislead or provide false information to IC, DC, delegate or member of OVIC staff. Penalty: 60 penalty units (s63F)</p> <p>Prosecutions (s63G)</p> <p>At completion of VCAT review, VCAT must notify relevant persons and the IC, where evidence of officer breach of duty or misconduct under Act (s61)</p>	
Review/ Appeal Avenue including Fees and Charges	<p>Application for Information Commissioner review or complaints: free</p> <p>EXTERNAL REVIEW:</p> <p>Discretion to not undertake a</p>	<p>Initial access application to an agency or Minister: costs may apply, depending on the amount/pages of information requested, with the first 50 pages</p>	<p>GIPA formal access application (\$30) (s41) with provision for waiver (s127)</p> <p>Internal (agency) review (\$40) – no processing</p>	<p>FOI application to agency-\$30</p> <p>EXTERNAL REVIEW:</p> <p>IC: free</p> <p>NTCAT: fee</p> <p>APPEAL:</p> <p>Appeal to</p>	<p>Application fee \$55.75</p> <p>Internal agency review (no fee)</p> <p>EXTERNAL REVIEW:</p> <p>External review by IC: free</p>	<p>FOI request application fee currently \$42.00</p> <p>Processing charges may also be imposed by agency</p> <p>EXTERNAL</p>	<p>Fee on application for assessed disclosure of information – 25 fee units (\$46.75 in the 2024-25 financial year)</p> <p>Fee may be</p>	<p>FOI request application fee as at April 2025: \$32.70 (s17)</p> <p>Access charges (s22, Access Charges Regulations)</p> <p>Fees and charges</p>	<p>Agency fees and charges</p> <p>\$30 fee for access application (no fee if only seeking personal information about the access applicant).</p>

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	<p>review or not to continue a review if satisfied the decision should be considered by the AAT (s54W(b) FOI Act)</p> <p>Commissioner can refer questions of law to → Federal Court of Australia (s55H FOI Act)</p> <p>Apply to Federal Court for order directing agency or Minister compliance with IC review decision – application made by review applicant or Commissioner (s55P FOI Act)</p> <p>Appeal questions of law to Federal Court by review party from a decision of the Information Commissioner on an IC review (s56 FOI Act)</p> <p>Application to the ART – review of an Information Commissioner's vexatious applicant declaration under s89K (s89N FOI Act)</p>	<p>being free of charge (s 104) (no fee for seeking own personal information). Can apply for fee waiver (s 107).</p> <p>External review to Ombudsman: no cost.</p> <p>Ombudsman review decisions are reviewable by the ACT Civil and Administrative Tribunal (s 84): lodgement fee (\$384 for person), and further costs may apply (see also s87).</p> <p>Application to ACT Supreme Court: costs apply as per schedule of fees for the Supreme Court (see also s88).</p>	<p>charges (s87)</p> <p>External review by IC: free</p> <p>External review by NCAT: fee prescribed under the <i>Civil and Administrative Tribunal Regulation 2013</i>.</p> <p>No review by IC if decision is or has been the subject of NCAT review (s98)</p> <p>Referral of systemic issues to IC from NCAT (s111)</p>	<p>Supreme Court on Commissioner or NTCAT decisions by a person aggrieved on <i>questions of law</i> only (s129)</p>	<p>QCAT appeal on question of law: \$379.50 – \$3,014.00 depending on matter type</p> <p><i>RTI Act</i></p> <p>Processing charge (more than 5 hours - \$8.65 for each 15 minutes; no processing charge under RTI Act if document contains personal information)</p> <p>Access charges may apply under RTI Act</p>	<p>REVIEW (no fee).</p> <p>Prescribed fees and charges (s53(1))</p> <p>Waiver of fees (s53(2)(a))</p> <p>Member of Parliament entitlements- access without charge unless work generated by application more than \$1000 (s53(2)(b)).</p> <p>APPEAL:</p> <p>Agency →</p> <p>SACAT on a question of law (s40(1)).</p> <p>Person →</p> <p>SACAT (s40(2)).</p> <p>A person who is aggrieved by a determination of an agency following internal review (or where decision not eligible for internal review) may appeal directly to District Court (s40(2)).</p> <p>Ombudsman cannot be a party to appeal proceedings (s40(6)).</p> <p>SACAT must order agency pays other party's reasonable costs (s40(8)(a)).</p>	<p>waived if applicant impecunious, is a member of parliament acting in connection with their official duty, a journalist acting in connection with their professional duties or the applicant is able to show that they intend to use the information for a purpose that is of general public interest or benefit.</p> <p>No fee on applications for internal or external review.</p> <p>There is no right of appeal to a court or tribunal under the RTI Act, only a right for the Ombudsman to apply to the Supreme Court on a question of law.</p>	<p>can be waived or reduced in certain circumstances (ss17(2B), 22)</p> <p>EXTERNAL REVIEW:</p> <p>IC: free</p> <p>TRIBUNAL (VCAT): fee (as at April 2025, fee for individual \$731.60).</p> <p>No fee applies for VCAT review of 'deemed refusal' by agency due to delay, or where document relates to applicants personal information (see VCAT website)</p> <p>Applicant or agency/Minister may seek review at VCAT(s50): of IC decision; where IC dismisses review as more appropriate by Tribunal (s49G); of agency/Minister decision to refuse access under s 29A (national security); of a 'deemed refusal' of an agency or Minister, due to delay; or access charges amount (where IC has certified it as sufficiently important for VCAT to consider</p>	<p>Agencies can impose charges for dealing with an access application for non-personal information (s16).</p> <p>Charges must be calculated by an agency in accordance with the <i>Freedom of Information Regulations 1993</i> (WA).</p> <p>Internal review An aggrieved person may seek internal review of an agency's decision (s39) – no fee or charges.</p> <p>External review An aggrieved person may seek external review of an agency's internal review decision or decision of the agency's principal officer (s65) – no fees or charges.</p> <p>Commissioner has discretion to accept an external review application without internal review having been applied for or completed (s66).</p> <p>Commissioner can make a costs order on external review in exceptional cases (s84).</p>

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						<p>SACAT may order that a party pay costs of agency, only if satisfied that the party acted unreasonably, frivolously or vexatiously (s40(8)(b)).</p> <p>Proceedings in SACAT are to be commenced within 30 days after notice of the determination to which the proceedings relate (s40(3)).</p> <p>External review and SACAT proceedings are not available to an agency or person simultaneously (s40(3)).</p> <p>SACAT application fee as at 1 July 2016 (\$87.50).</p>		<p>s50(1)(g)).</p> <p>Affected third parties may apply to VCAT for review of agency or IC decision (s50).</p> <p>Application for VCAT review must be made within 60 days (s52)</p> <p>Commissioner or agency may apply to Supreme Court to determine jurisdiction to serve notice to produce or attend (s63BA)</p>	<p>Review by the Supreme Court</p> <p>Parties can appeal to the Supreme Court of WA on any question of law arising out of the Commissioner's decision on an external review relating to an access application (s85).</p> <p>Commissioner may refer to the Supreme Court any question of law that arises in the course of dealing with an application for external review (s78).</p> <p>Supreme Court may make an order or decision relating to costs as it thinks fit.</p> <p>If an agency appeals a decision, it bears its own costs.</p> <p>Commissioner is not liable for any costs, except where the Commissioner has referred a question of law to the Supreme Court (s89).</p>
Commissioner appointment and removal	<p>Appointment by Governor General – s14(1) AIC Act</p> <p>Removal Governor</p>		<p>Appointed by the Governor (s4(1) GIIC Act)</p> <p>Removal (or suspension) by the Governor</p>		<p>Appointment by Governor in Council (s134(1))</p> <p>Removal by Governor on</p>			<p>Appointment of IC by Governor in Council, on recommendation of Minister</p>	<p>Appointed by the Governor (s 56)</p> <p>Suspension/removal by the Governor (s 58)</p>

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	General on grounds AIC Act s20		(s8 GIIC Act)		address from Assembly (s161(1))			(s6C). Appointment of DC by Governor in Council (s6D) 5 year appointment of IC and DC, on t&c's determined by Governor in Council (ss6E, 6F). Maximum 2 terms. Suspension by Governor in Council, if satisfied IC unfit to hold office (s6N) IC removal by Governor in Council, if each House of Parliament resolves to remove (s6N) DC suspension or removal by Governor in Council, on recommendation of Minister, on grounds of misconduct, neglect of duty, inability to perform duties, etc (s6O)	
Commission - Integrity role and mandate	OAIC recognised as an integrity agency within Cth Integrity Agency Forum Mandate AIC Act Div 3		Recognised as an integrity agency for the purposes of the <i>Public Interest Disclosures Act 2022</i>		OIC recognised as a key integrity agency in Queensland Mandate (Chapter 4, Part 2-4)			OVIC recognised as an integrity body, subject to oversight by Integrity Oversight Victoria. Mandate	Member of the Accountability Agencies Collaborative Forum No legislative mandate

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
								ss6G, 6H, 6I	
Commission - Independence - funding	Funding provided by appropriation through budget process		Funding provided by grant from a Principal Department through State budget process		IC not subject to direction by anyone in exercising functions under RTI Act. Funding provided by appropriation through budget process under Departmental allocation. Request for additional funding to be made through Parliamentary Committee (Chap 4, Part 7, Div 3)			Funding allocated by Department, through Department's annual appropriation (not independent).	Funding primarily provided by State Government - Attorney General is the responsible Minister
Commission - Independence - staffing	AIC agency head and responsible for APS staffing s13, 23 & 25 AIC Act		IC is the agency head of the IPC, who are responsible for supporting the Information Commissioner (s12 GIIC Act, s22 and Sch1, <i>Government Sector Employment Act 2013</i>)		OIC staff are public sector employees but are not subject to direction by any person other than IC in performance of IC's powers and functions (s146)			IC is head of OVIC and responsible for employing staff (s6Q)	Staff appointed by Governor, on recommendation of IC (s 61)
Commission - Independence - reporting powers and requirement to report	AIC Act s 7(a) AIC provides reports to the Minister AIC required to provide annual report s30 AIC Act		Required to report to Parliament annually on the operation of the GIPA Act (s37 GIIC Act) Required to prepare annual report on the exercise of Commissioner		IC May report directly to Speaker on matters relating to a particular external review (s184(1)) IC must report on OIC operations (annual report) to Speaker and			IC required to provide annual report (s64) IC may table investigation report in each House of Parliament (61T) IC required to	Commissioner reports to Parliament – annual report (s 111)

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
			<p>functions (s36 GIIC Act)</p> <p>May make special reports to Parliament on any matter relating to the Commissioner's functions (s38 GIIC Act)</p> <p>Reports made directly to the Presiding Officer of each House of Parliament and must be laid before the Houses on the next sitting day (s39 GIIC Act)</p>		<p>Parliamentary Committee (s184)</p> <p>IC reports to parliamentary committee on outcome of audits and reviews (s131)</p>			<p>report to Integrity and Oversight Committee of Victorian Parliament (s64A)</p> <p>IC required to report to Integrity Oversight Victoria re use of coercive powers (s61ZD)</p>	
Parliamentarian right to request Commission					IC not subject to request by Parliament to exercise functions			Integrity and Oversight Committee of Victorian Parliament can undertake inquiries relating to the work of OVIC and receive complaints about OVIC.	

Other notes

- In all jurisdictions apart from Victoria and the ACT, the FOI Acts provide for decisions for which internal review may be sought:
 - Commonwealth – Part IV
 - ACT – the review powers of the Ombudsman replace the internal review process
 - NT – s 38
 - NSW – s 82
 - QLD – s 80
 - SA – s 38
 - TAS – s 43
 - WA – s 39 and s 54
 - Victoria – the review powers of the Information Commissioner replace the internal review process