

# Compendium of information access laws across Australian states and territories

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
<b>LEGISLATION</b>	<a href="#">Freedom of Information Act 1982</a> (Cth) (FOI Act)  <a href="#">Australian Information Commissioner Act 2010</a> (Cth) (AIC Act)	<a href="#">Freedom of Information Act 2016</a> (ACT) (ACT FOI Act)	<a href="#">Government Information (Public Access) Act 2009</a> (NSW)  <a href="#">Government Information (Information Commissioner) Act 2009</a> (NSW)	<a href="#">Information Act 2002</a> (NT)	<a href="#">Right to Information Act 2009</a> (QLD)	<a href="#">Freedom of Information Act 1991</a> (SA)	<a href="#">Right to Information Act 2009</a> (TAS)	<a href="#">Freedom of Information Act 1982</a> (VIC)	<a href="#">Freedom of Information Act 1992</a> (WA) (FOI Act)  <a href="#">Information Commissioner Act 2024</a> (WA) (IC Act)  Note: the <a href="#">Privacy and Responsible Information Sharing Act 2024</a> (WA) will amend the <a href="#">Freedom of Information Act 1992</a> (WA). The relevant provisions will commence on 1 July 2026.
<b>OBJECTS</b>	FOI Act (section 3): To give the Australian community access to information held by the Government of the Commonwealth, by: <ul style="list-style-type: none"> <li>requiring agencies to publish the information; and</li> </ul>	Provide right of access to government information unless, on balance, access would be contrary to the public interest.  Recognise importance of public access to government information for the proper	Open government information to be public by: <ul style="list-style-type: none"> <li>authorising and encouraging the proactive release of information by NSW agencies;</li> <li>giving members of</li> </ul>	Contains general principle of accountability for government information – states that public sector organisations are required to: <ul style="list-style-type: none"> <li>make available to the public such government</li> </ul>	Provides right of access to government-held information unless, on balance, it is contrary to the public interest (s3(1)(a)).  Provides right of amendment of personal information held by government	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	Unqualified right of access to documents.	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	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: <ul style="list-style-type: none"> <li>Creating a</li> </ul>

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	<ul style="list-style-type: none"> <li>providing for a right of access to documents.</li> </ul> <p>AIC Act: Establishes the statutory office of the Australian Information Commissioner and prescribes the functions of the Commissioner which include freedom of information functions, privacy functions and information functions.</p>	<p>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, government information is freely and publicly available to everyone.</p> <p>Facilitate and promote, promptly and at the lowest cost, disclosure of the maximum amount of government information.</p> <p>Ensure personal information held by the government is accurate, up-to-date and not misleading. (s6)</p>	<p>the public a legally enforceable right to access government information; and</p> <ul style="list-style-type: none"> <li>ensuring that access to government information is restricted only when there is an overriding public interest against releasing that information. - (s3)</li> </ul>	<p>information as is reasonably possible;</p> <ul style="list-style-type: none"> <li>provide government information to the public promptly; and</li> <li>assist the public to ensure that personal information is accurate, complete and up-to-date.</li> </ul> <p>The Act also protects the privacy of personal information held by public sector organisations (s3(b)).</p> <p>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.</p> <p>But public sector organisations are not required to provide access to</p>	<p>unless, on balance, it is contrary to the public interest (s3(1)(b)).</p>	<p>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 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.</p>		<p>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 cost, the disclosure of information.</p>	<p>general right of access to State and local government documents</p> <ul style="list-style-type: none"> <li>Providing means to ensure that personal information held by State and local government is accurate, complete, up to date and not misleading</li> <li>Requiring that certain documents concerning State and local government operations be made available to the public (s3 FOI Act)</li> </ul>

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				government information if it is not in the public interest to do so.					
<b>SECTORS</b>	<p>Australian Government Agencies with certain exclusions.</p> <p>Australian Government Ministers and Assistant Ministers (s11 FOI Act).</p> <p>'Prescribed authority' (s4(1) FOI Act):</p> <ul style="list-style-type: none"> <li>body corporate or unincorporated body established for a public purpose</li> <li>NBN Co</li> <li>any other body declared by the regulations</li> <li>a person holding an office or appointment under an enactment or Order in Council that is prescribed in the regulations</li> </ul> <p>Norfolk Island authorities (s4(1) FOI Act)</p> <p>Restricted application to courts and court registrar (s5 FOI Act)</p> <p>Restricted application</p>	<p>Government agencies (s15)</p> <p>Administrative unit</p> <p>Statutory office-holder and staff</p> <p>Territory authority (excluding judicial council, law society)</p> <p>Territory 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</p>	<p>Government agencies</p> <p>Ministers and officers</p> <p>Local councils</p> <p>State owned corporations</p> <p>Contractors through contract arrangements (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>Government agencies</p> <p>Government business divisions</p> <p>Person/body declared by the regulations to be a public sector organisation (s5)</p> <p>Appointed or 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>State Ministers and staff including consultants to Ministers (s13)</p> <p>State Government department (s14(1)(a))</p> <p>Local Government (s14(1)(b))</p> <p>Public Authority (including universities, hospital and health services) (s14(1)(c))</p> <p>Government Owned Corporation (s14(1)(d))</p> <p>Subsidiary of a Government</p> <p>Owned Corporation (s14(1)(e))</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>Government ministers</p> <p>Persons who hold offices established by an Act</p> <p>Administrative units of the Public Service</p> <p>SA Police 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 Parliamentary 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</p>	<p>State Government agencies</p> <p>Ministers</p> <p>Local Government</p> <p>Statutory Authorities</p> <p>State and Council owned companies</p> <p>Public Authorities including Tasmania Police and the University of Tasmania</p> <p>Excludes certain persons and bodies (s6)</p> <p>Specifies that information in the possession of a Minister which does not relate to the Minister's official business is exempt (s28)</p>	<p>Government agencies incl. Departments</p> <p>Local councils</p> <p>Universities</p> <p>Police</p> <p>'Prescribed authority'</p> <p>= body corporate established for a public 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>Most WA State government agencies, including departments, authorities, boards and commissions</p> <p>Ministers</p> <p>Local government agencies</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 FOI Act)</p> <p>Some agencies, or parts of agencies, are specifically exempt (Sch. 2 FOI Act)</p> <p>Restricted application to courts and tribunals - only documents related to matters of an administrative nature (clause 5 Glossary FOI Act)</p>

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	<p>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 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>	<p>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>non-exempt agencies is specifically exempt. (Schedule 2 to the Act and <i>Freedom of Information (Exempt Agency) Regulations 2008</i>).</p>			
<b>JURISDICTION</b>	<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</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</p>	<p>Reviewable decisions (s80)</p> <p>Complaints (s17 GIIC)</p> <p>Investigation of agency systems, policies and practices (s21 GIIC)</p>		<p>External merits review of access or amendment decisions made by Agencies or Ministers (s85)</p> <p>Investigate and review decisions of agencies and Ministers (s130)</p> <p>Support functions including issuing of guidance on interpretation and administration of the RTI Act and giving information</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>External merits review of decisions (s44)</p> <p>Other applications for review in certain circumstances including sufficiency of search and deemed refusal (ss 45 &amp; 46)</p> <p>Appeal to Supreme Court on a question of law</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</p>	<p>External merit review of agency decisions on access and amendment applications (s97A FOI Act)</p> <p>Make decisions on other applications in relation to timeframes for agencies to deal with access applications and the requirements to consult third</p>

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	<p>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>Appeal on a question of law to the Federal Court of Australia (s 56 FOI Act).</p>	<p>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 to any functions under ACT FOI Act (s 69).</p> <p>See also 'Functions and Role of the Information Commissioner' section.</p>			<p>and assistance (s128)</p> <p>Performance monitoring, including audit (s131)</p> <p>Financial hardship decisions by IC (s67)</p> <p>Vexatious applicant declarations (s114)</p> <p>Reference of questions of law to the Queensland Civil and Administrative Appeals Tribunal (QCAT) (s118)</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. (s18(2a)).</p> <p>Right to external review by the Ombudsman. (s39).</p> <p>Merits review to the SA Civil and Administrative Tribunal (<b>SACAT</b>).</p> <p>(Agencies may only seek review on a question of law.) (s40).</p>		<p>Act (s64)</p> <p>Conduct own motion investigations (s61O)</p>	<p>parties (ss13 and 35 FOI Act)</p> <p>See also 'Functions of the Information Commissioner and Information Access Deputy Commissioner' s97A</p>

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<b>PUBLICATION</b>	<ul style="list-style-type: none"> <li>Require information publication scheme (Part II, Div 2 FOI Act)</li> <li>Publication of information in accessed documents (s11C FOI Act)</li> </ul>	<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"> <li>an agency information guide;</li> <li>certain information tabled in Parliament;</li> <li>agency's disclosure log of its access applications;</li> <li>register of government contracts; and</li> <li>record of information not made available.St</li> </ul> <p>Additional open access requirements (GIPA)</p> <p>Regulation, cl 4, 6, 6A) for:</p> <ul style="list-style-type: none"> <li>Ministers;</li> <li>Government Departments;</li> <li>Statutory bodies; and</li> <li>Local councils.</li> </ul>	<ul style="list-style-type: none"> <li>Publication of specified information (s11)</li> </ul>	<ul style="list-style-type: none"> <li>Requirement for policy documents to be publicly available and a publication scheme to set out the types of information available and the terms on which they are available, including charges (s20; s21).</li> <li>Publish a disclosure log with details of information sought and disclosed (s78A).</li> <li>Act not intended to prevent or discourage other publication of information (s4).</li> </ul>	<ul style="list-style-type: none"> <li>Publication of specified information (s9)</li> </ul>	<ul style="list-style-type: none"> <li>Promotes the proactive release of information by public authorities and Ministers and provides for 4 types of disclosure, incl. required and routine disclosure</li> <li>Information disclosure policy is required</li> <li>Processes in place must comply with the guidelines issues by the Ombudsman (s49)</li> </ul>	<ul style="list-style-type: none"> <li>Publication of specified information (s7)</li> <li>Publication of the fact an agency possesses certain types of documents (ss 8, 11)</li> </ul>	<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 and 96 FOI Act)</p> <p>Requires public availability for inspection and purchase of agencies most up-to-date information statement and each of its internal manuals (ss95 and 97 FOI Act)</p> <p>Requirements do not apply to Ministers or 'exempt agencies' (s96 FOI Act)</p>

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<b>OVERSIGHT</b>	<p>Senate Standing Committees on Legal and Constitutional Affairs</p> <p>Standing Orders of the Senate – s 34 (Powers) provides:</p> <p>The Senate may give a committee power to send for persons and documents, and a committee with that power may summon witnesses and require the production of documents.</p> <p>The chair of a committee shall direct the secretary attending the committee to invite or summon witnesses and request or require the production of documents in accordance with the orders of the committee.</p>	<p>ACT Legislative Assembly</p> <p>ACAT (for Ombudsman review decisions)</p>	<p>Joint Parliamentary Committee (s44 GIIC)</p>		<p>Parliamentary Committee (s189)</p>	<p>Crime and Public Integrity Policy Committee</p>	<p>Joint Standing Committee on Integrity</p>	<p>Integrity and Oversight Committee of Parliament</p> <p>Integrity Oversight Victoria (re coercive powers)</p>	<p>Standing Committee on Public Administration, Legislative Council, WA Parliament</p>
<b>FUNCTIONS AND ROLE OF INFORMATION COMMISSIONER</b>	<p>Division 3 of the AIC Act sets out the functions and powers of the information officers, being: the Information Commissioner, FOI Commissioner and Privacy Commissioner.</p>	<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</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</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</p>	<p>Provide guidance on interpretation and administration of Act (s128(1)(a)).</p> <p>Provide information and assistance to agencies, applicants and third parties with</p>	<p>Relevant review authority in relation to determinations made under the FOI Act (s39(1))</p> <p>Ombudsman must make annual report on work of his office to be laid before</p>	<p>Conduct independent, external merits review of agency decisions.</p> <p>Issue guidelines and manual and provide advice to public authorities on the process of disclosure and in</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</p>	<p>Deal with complaints made under Part 4 (of the FOI Act) about decisions made by agencies on access and amendment applications (s97A FOI Act)</p> <p>Ensure agencies</p>

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	<p>Functions of the Information Commissioner are prescribed under s7 and 10 of the AIC Act and include reporting to the Minister on the Commonwealth Government's collection, use, disclosure, management, administration or storage of, or accessibility to, information; and systems. Further functions are conferred by other Acts.</p> <p>Functions of the Freedom of Information Commissioner are prescribed under s8 and 11 of the AIC Act and include to 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 regarding legislative change or administrative action; monitor, investigate and report on agency compliance; review decisions; undertake investigations; and collect information/statistics</p>	<p>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>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>Review decisions of agencies and monitor, audit and report on the exercise by agencies of their functions under, and compliance with, the Act (s17)</p> <p>Provide reports and recommendations to the Minister (s17)</p> <p>Receive notice, issue guidelines and models in connection with agency information guides (s22)</p> <p>GIIC or other Acts (s14 GIIC and agency head GSE; PFA Act)</p> <p>Produce reports annually on</p>	<p>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 developments elsewhere</p> <p>Make public statements about relevant FOI and privacy matters</p> <p>Deal with FOI and privacy complaints</p> <p>Grant ss 81 &amp; 81A authorisations to collect, use or disclose info in a manner inconsistent with or contravene IPPs</p> <p>Approve by gazettal a Code of Practice (s73)</p> <p>Serve PSOs with a compliance notice (s82)</p>	<p>access applications (s128(1)(b)).</p> <p>Promote greater awareness of operation of the Act (s128(1)(c)).</p> <p>Monitoring application of the public interest test (s128(1)(d)).</p> <p>Commissioning external research and surveys to monitor achievement of the Act's stated objectives (s128(1)(e)).</p> <p>Identifying and commenting on legislative and administrative changes to improve administration of the Act (s128(1)(g)).</p> <p>Decide applications for extensions of time; Decide applications for financial hardship; Making varying or revoking declarations under s114 and s115 (s129).</p> <p>External review functions - investigating and reviewing decisions of agencies and Ministers (s130).</p> <p>Performance monitoring</p>	<p>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 training programs to assist agencies in complying with this Act (s54A)</p> <p>State Records of South Australia assists the Minister to administer the legislation (general advice, drafting policy, guidelines, information sheets, training government agencies)</p>	<p>relation to the operation of the Act generally (s49)</p> <p>Provide training on the operation of the Act</p>	<p>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 standards (s61)</p> <p>Develop, monitor compliance with, and review professional standards (s61)</p> <p>Provide advice, education and guidance to agencies and the public regarding the Information Commissioner's functions (s61)</p> <p>Report to integrity and oversight committee (s64A)</p>	<p>are aware of their responsibilities and the public are aware of their rights under the Act (s97A FOI Act)</p> <p>Provide assistance to members of the public and agencies on matters relevant to the FOI Act (s97A FOI Act)</p> <p>Impose reductions in time and allowing extensions of time for agencies to deal with applications (s13 FOI Act)</p> <p>Give approvals to give access to documents without consulting third parties in certain circumstances (s35 FOI Act)</p> <p>Commissioner must report annually to Parliament on the operation of the Act and operations of the Commissioner during the year (s111 FOI Act)</p> <p>Commissioner must publish decisions in full or in an abbreviated, summary or note form, as is</p>

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	<p>about FOI matters for the s30 annual report. Further functions are conferred by other Acts.</p> <p>Review of the information publication scheme (s8F FOI Act);</p>		<p>operation of GIPA (s37 GIIC)</p> <p>Special report to Parliament (s38)</p>		<p>functions - including reviewing and reporting on agencies compliance with the Act (s131(1)). Issuing guidelines on various matters including interpretation and administration of the Act (s132).</p> <p>Report to Parliament on matters relating to a particular external review (s184).</p>				<p>appropriate to ensure that the public is adequately informed of the grounds on which decisions are made (s76(8) FOI Act)</p>
<b>POWERS OF COMPULSION AND PROCEDURE S</b>	<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 specified by the notice (ss 55R, 55S)</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</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 -</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</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</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</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,</p>	<p>The Commissioner has all the powers that are needed for the performance of their functions (s25(2) IC Act)</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 FOI Act)</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</p>

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	<p>FOI Act)</p> <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 FOI Act), Cabinet documents exemption (s34 FOI Act) or Parliamentary Budget Office documents exemption (s45A FOI Act) 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>Investigation powers</p>	<p>to give information relevant to Ombudsman review (s79).</p> <p>Direct decision-maker, agency, 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>standing to apply for an injunction and judicial 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>in reports, decisions or any other form (s102)</p> <p>Commissioner can refer 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>documents (s100)</p> <p>Require access in a particular form (s101).</p> <p>Require search (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 or amendment 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>establishing that the determination is justified lies on the agency (s48)</p> <p>In conducting a 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>during a review (s49KB), complaint (s611) or investigation (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>proper consideration of the matters before the Commissioner permit.</p> <p>Commissioner:</p> <ul style="list-style-type: none"> <li>• is not bound by the rules of evidence</li> <li>• has to ensure that the parties to an external review are given a reasonable opportunity to make submissions to the Commissioner</li> <li>• may determine the procedure for investigations and dealing with an external review and give any directions as to the conduct of the proceedings</li> <li>• must provide reasons for decision</li> </ul> <p>(ss 70 and 76 FOI Act)</p> <p>Parties to an external review may be represented (s70 FOI Act)</p> <p>Commissioner's decisions are legally binding (s76(7))</p>

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
	(Part VIIB FOI Act) Declarations of vexatious applicants (s89K FOI Act)								
<b>REVIEW POWERS</b> Specific review powers by Information Commissioner	<p>IC reviewable decision – access refusal decisions (s54L FOI Act) and access grant decisions (s54M FOI Act)</p> <p>An agency or Minister must comply with an IC review decision (s55N FOI Act)</p> <p>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)</p> <p>The Commissioner has IC review functions (Part VII FOI Act).</p> <p>The Commissioner can make a decision to affirm, vary, or set aside and substitute an access refusal or access grant decision of an agency or Minister (s 55K FOI Act).</p> <p>The Commissioner may make preliminary inquiries (s54V FOI Act).</p>	<p>The Ombudsman can review decisions:</p> <ul style="list-style-type: none"> <li>to make / to not make open access information publicly available under s24(1)</li> <li>to give access to government information under s35(1)(a)</li> <li>that government information is not held under s35(1)(b)</li> <li>to refuse access to government information under s35(1)(c)</li> <li>to refuse to deal with an access application under s35(1)(d)</li> <li>to refuse to confirm or deny government information is held under</li> </ul>	<p>Reviewable decision (s80)</p> <p>IC power of recommendation in relation to reviews (ss92, 93, 94) and general procedure (s95)</p> <p>Making of a review application s89 (GIPA)</p> <p>Onus on agency to justify (s97(1))</p> <p>Onus on applicant to establish entitlement to reduction in processing charge (s97(3))</p> <p>Onus on 3rd party applicant to justify non release (s97(2))</p> <p>IC refusal to entertain frivolous, vexatious, misconceived, lacking in substance; or review would require unreasonable and substantial diversion of resources; failure without reasonable excuse of co-</p>	<p>90 days for applicants to complain to OIC from the date of PSO's internal review notification;</p> <p>60 days to appeal to the Supreme Court on a matter of law only</p> <p>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))</p>	<p>Reviewable decision (defined in Schedule 5).</p> <p>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).</p> <p>Affirm, vary or set aside and substitute decision (s110).</p> <p>IC may decide not to review or further deal with all or part of external review application (s94).</p> <p>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).</p> <p>On own motion IC may declare an applicant</p>	<p>Review determination of agency to refuse to deal with an application (s18).</p> <p>Review of determination of agency to refuse access (s20).</p> <p>Review of agency's determination to refuse to amend records (s35).</p> <p>Review of agency's determination to refuse to add notation to records (s37).</p> <p>On application for external review the Ombudsman may confirm, vary or reverse the determination the subject of the review (s38(11)).</p> <p>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 despite its</p>	<p>External review of agency decision on internal review (s 44).</p> <p>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)).</p> <p>Review of delayed decision as a deemed refusal (s46)).</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</p>	<p>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)</p> <p>Must notify agency or Minister of application for review (s49D)</p> <p>May provide agency or Minister with copy of application for review, with consent of applicant (s49D)</p> <p>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</p>	<p>In dealing with an external review, the Commissioner may:</p> <ul style="list-style-type: none"> <li>obtain information and make inquiries</li> <li>determine the procedure for investigating and dealing with external reviews and give directions as to the conduct of proceedings</li> <li>suspend inquires, investigations or other proceedings so that efforts can be made to resolve the external review by conciliation or negotiation</li> <li>give directions and do such other things as Commissioner thinks fit</li> <li>nominate a person to act as a conciliator</li> <li>require the production of information or documents</li> </ul>

	Commonwealth	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
	<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 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).Decide not to investigate a complaint made under s 70 (s73)</p>	<p>s35(1)(e)</p> <ul style="list-style-type: none"> <li>to refuse to amend personal information under s61(1)(b)</li> </ul> <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>operate with IC; inability to contact application (s96)</p>		<p>vexatious (s114).</p> <p>Vary or revoke vexatious declaration (s115). IC may refer a question of law on external review to the QCAT (s118)</p>	<p>exempt status (s38(12)).</p> <p>Ombudsman may publish reasons for a determination, if Ombudsman consider 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 vary the fee or</p>	<p>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>(s49G)</p> <p>Agency or 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</p>	<ul style="list-style-type: none"> <li>require attendance before the Commissioner to answer questions</li> <li>examine a person under oath or affirmation</li> <li>give directions or do things necessary to avoid the disclosure of exempt matter or the existence or non existence of certain exempt matter</li> <li>require an agency to conduct additional searches</li> <li>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</li> <li>confirm, vary or set aside agency decision</li> </ul> <p>(ss 71 – 76 &amp; 26 FOI Act)</p> <p>Commissioner's</p>

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	FOI Act)					charge and/or give directions as to the payment for a fee or charge (s53(4)).		'relevant authority' (s49O)  Notice of decision must set out reasons (s49P)  Commissioner's decision has same effect as decision of agency or Minister (s49P)	decision must be in writing (s76(2) FOI Act)  May decide not to deal with an external review application or to stop dealing with an external review application because it is frivolous, vexatious, misconceived or lacking in substance (s67 FOI Act)  No power to make a decision to the effect that access is to be given to an exempt document (s76(4) FOI Act)
<b>TIME FRAMES</b>  Review by the Information Commissioner i.e. maximum days to escalate matter (external review)	An application for IC review of an 'access refusal' decision (s 54L FOI Act) must be made <b>within 60 days</b> after the notice of the IC reviewable decision was given (s54S(1) FOI Act)  An application for IC review on an 'access grant' decision (s 54M) must be made <b>within 30 days</b> after the notice of the IC reviewable decision was given (s54S(2) FOI Act)  An FOI applicant or an affected third party may ask the IC for an extension	An application for Ombudsman review must be made within 20 working days <b>after</b> 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).  Ombudsman can grant an extension of time (s74(1)(b)).  Ombudsman must make a decision on the	Review by Information Commissioner – application to be made <b>within 40 working days</b> after notice of the decision given to the applicant (s90)  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 <b>5 working days</b> after the application is	Applicant has <b>90 days</b> after reviewing the notice to make a complaint to Information commissioner (s41(b))	Application for external review must be made <b>within 20 business days</b> from the date of the written notice of the decision (or within the longer period the IC allows) (s88(1)(d)). 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	Person aggrieved by a determination of an agency following an internal review may apply to the Ombudsman for a review of the determination (s38)  Application must be made within 30 days after the person received notification of the determination (s38(3)).  Ombudsman has a discretion to extend time (s38(4)).  Application to	Application must be made within 20 working days from the date the decision is received, or if no decision is received, 20 working days from the 15 working days from the date the application for disclosure was lodged s44(1).  There is no power to extend time.	Application for review must be received <b>within 28 days</b> after the day on which notice in writing of agency or Minister's decision is given (s49B)  Commissioner may accept an out-of-time review application (s49B)  Commissioner must complete review <b>within 30 days</b> , or longer period agreed in writing with applicant (s49J)	Application for external review to be lodged within <b>60 days</b> after being given written notice of the internal review decision (if access applicant) or <b>within 30 days</b> if a third party (s66 FOI Act)  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(3) FOI Act)

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	of time to apply for IC review (s54T FOI Act)	review within <b>30 working days</b> (s82) after the 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)).	received. (s51(2))  Review by the Information Commissioner must be completed within <b>40 working days</b> after the Commissioner receives all information the Commissioner considers necessary to complete the review. (s92A)		as possible (s95(1)).	review an agency's determination must be made within <b>30 days</b> after notice of the decision (s39(3))			Act)  Agencies must deal with an access application as soon as practicable or within the "permitted period" - 45 days or as agreed between the applicant and the agency or as allowed by the Commissioner (s13 FOI Act)  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)
<b>COMPLAINTS MANAGEMENT AND DISPUTE RESOLUTION POWERS/ FUNCTIONS</b>	Investigate complaints against agencies in the performance of their functions under s 70 of the FOI Act (ss69(1) FOI Act), 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	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).	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)	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	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	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	No complaints function under the Act, but complaint 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 and give directions in this regard ((s47)).	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)	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>Ombudsman, if appropriate (s74 FOI Act)</p> <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 FOI Act), and may report to the Minister responsible for the agency in question (s89A FOI Act)</p>	<p>The Ombudsman can refer a matter for mediation and require parties to attend (s81).</p>	<p>Prevent contravention - standing to apply for an injunction and judicial review (s28 GIC)</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 GIC)</p>	<p>party information and decide whether there is sufficient prima facie 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</p>	<p>progressing the external review application without reasonable excuse; inability to contact applicant (s94); substantial and unreasonable diversion of resources (s41); previous application for same documents (s43).</p>	<p>settlement) (s38(7))</p> <p>Ombudsman may dismiss an application if 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>May refer complaint to another body if more appropriate to deal with (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</p>	

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				days of the referral (s112B)				(s61GA) Must take reasonable steps to resolve informally (s61GB), and conciliate if cannot be resolved (s61H)  If conciliation unsuccessful, must allow parties to make submissions, must deal with complaint with little formality and technicality (s61I).  May compel agency or Minister to produce documents or attend an examination (s61I)  Power to make recommendations (s61L)	
<b>REGULATOR Y POWERS AND DELEGATION</b>	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: <ul style="list-style-type: none"><li>preparing the Annual Report</li><li>issuing</li></ul>	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).	IC may delegate any function to staff or persons authorised through regs (s13 GIIC)  Monitor, audit, report (s17)  Education & advice (s17)  Issue statutory guidelines and other publications (ss17, 22)	Commissioner may delegate powers and functions under the Act but must not do so without the approval of the Minister (s89)  May require a PSO to answer a question, produce a record, or other thing (s87(e)).  Commissioner has the power to	IC may delegate to a member of staff of OIC all or any of the commissioner's powers (s145)	Ombudsman may delegate powers under section 9 of the <i>Ombudsman Act 1972</i> .	Ombudsman may delegate powers pursuant to s10 of the Ombudsman Act.	IC functions (ss 6G, 6I(1))  Deputy Commissioner functions, incl reviews and complaints (ss 6H, 6I(2))  IC may delegate functions and powers to DC, except power to employ staff, power of delegation,	Commissioner may delegate to a member of staff any power or duty, <u>except</u> : <ul style="list-style-type: none"><li>the power to delegate under s 28(1) of the IC Act</li><li>the power to require an agency to produce documents for inspection</li></ul>

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	<p>Guidelines</p> <ul style="list-style-type: none"> <li>referring a question of law to the Federal Court under s55H of the FOI Act</li> <li>correcting errors in an IC review decision under s55Q</li> <li>implementing notices and reports under ss89 and 89A of the FOI Act</li> <li>making a vexatious applicant declaration under s89K of FOI Act.</li> </ul> <p>In addition, certain functions may only be delegated to an OAIC staff member who is an SES employee (ss25(2) AIC Act):</p> <ul style="list-style-type: none"> <li>making an IC review decision under s55K of the FOI Act</li> <li>exercising discretion not to investigate a complaint under s73 of the FOI Act</li> </ul> <p>notifying on completion of an investigation under s86 of the FOI Act.</p>		<p>Review agency decisions (s17)</p> <p>Report and recommend to Minister proposals for legislative and administrative changes (s17)</p>	<p>compel evidence (s110A)</p> <p>Commissioner can refer application back to PSO and require a further review of its internal review decision (s103(2))</p>				<p>powers re reviews and complaints, and reporting obligations (s6R)</p> <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>(s97C FOI Act)</p> <ul style="list-style-type: none"> <li>any function under s76 in relation to dealing with a complaint (s97C FOI Act)</li> <li>the power to consider or make a decision related to an exemption certificate under s77 of the FOI Act (s97C FOI Act)</li> </ul>
<b>OFFENCE PROVISIONS AND PROTECTIONS</b>	<p><u>ffences:</u></p> <p>Contravention of s55R obligation to produce information and</p>	<p>Knowingly making a decision contrary to the Act (ss 89 – 100 penalty units).</p>	<p>Unlawful access (s119)</p> <p>Concealing or destroying (s120)</p>	<p>A person must not conceal or dispose of govt info to prevent access or</p>	<p><u>Protections</u></p> <p>Minister does not incur civil liability for disclosing information under a</p>	<p>Protection against criminal actions with respect to giving access to a document (if</p>	<p>A person must not deliberately obstruct or unduly influence a principal officer, a</p>	<p><u>Protections for agencies, Ministers and persons:</u></p> <p>No defamation or</p>	<p>It is an offence for a person to gain access to a document containing</p>

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	<p>documents. 6 months 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. 6 months imprisonment (s83(3) FOI Act)</p> <p><u>Protections:</u></p> <p>Claim of legal professional privilege to documents or information produced</p>	<p>Intentionally giving direction to 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>Protection breach of confidence, 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>correction</p> <p>Person must:</p> <ul style="list-style-type: none"> <li>not breach confidentiality provisions of s148;</li> <li>not knowingly provide false or misleading info;</li> <li>not without reasonable excuse obstruct, hinder or fail to comply with Commissioner.</li> </ul>	<p>publication scheme or other administrative scheme in good faith (s22A).</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 in respect of offences relating to publication (s173).</p> <p>Protection from civil liability to agencies, Ministers and OIC if action or omission made honestly and without negligence under Act (s174).</p> <p>Direction to employee to act in particular way (s175).</p> <p><u>Offences</u></p> <p>Unlawful access to document (s176).</p> <p>False or misleading information (s177).</p> <p>Failure to produce documents or attend proceedings (s178).</p> <p>Disclosure or</p>	<p>person by whom determination is made honestly 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</p>	<p>Minister, a delegated officer or the 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 (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 criminal offence by reason only of the provision of the</p>	<p>breach of confidence for 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</p>	<p>personal or business information about another person by deceit (s109 FOI Act)</p> <p>It is an offence for a person to conceal, destroy or dispose of a document to prevent access to it (s110 FOI Act)</p> <p>Officers ("person") of an agency are protected from defamation, criminal liability and personal liability if they act in good faith (ss104-107 FOI Act)</p> <p>No civil or criminal liability incurred for anything done by an information official, in good faith, in performance of a function under the Act (s34 IC Act)</p> <p>It is an offence for the Commissioner or his or her staff to record, disclose or use information obtained in the administration of an information act (s33 IC Act)</p> <p>It is an offence for an agency to fail to produce information or documents,</p>

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	<p>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>				taking advantage of information (	<p>person with a view to disciplinary action being taken (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>information or authorising that provision (s52).</p>	<p>person, other than agency who 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>	<p>attend before the Commissioner or a conciliator once required to do so (s83 FOI Act)</p>
<b>REVIEW/ APPEAL AVENUE INCLUDING FEES AND CHARGES</b>	<p>Application for Information Commissioner review or complaints: free</p> <p>EXTERNAL REVIEW:</p>	<p>Initial access application to an agency or Minister: costs may apply, depending on the amount/pages of information</p>	<p>GIPA formal access application (\$30) (s41) with provision for waiver (s127)</p> <p>Internal (agency) review (\$40) – no</p>	<p>FOI application to agency-\$30</p> <p>EXTERNAL REVIEW:</p> <p>IC: free</p> <p>NTCAT: fee</p> <p>APPEAL:</p>	<p>Application fee \$57.65.</p> <p>Processing charge - more than 5 hours - \$8.95 for each 15 minutes.</p> <p>No application fee</p>	<p>FOI request application fee currently \$34.25</p> <p>Processing charges may also be imposed by agency</p>	<p>Fee on application for assessed disclosure of information - \$38.25. There is provision for waiver in certain</p>	<p>FOI request application fee as at April 2025: \$32.70 (s17)</p> <p>Access charges (s22, Access Charges</p>	<p><b>Agency fees and charges</b></p> <p>\$30 fee for access application (no fee if only seeking personal information about the access</p>

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	<p>Discretion to not undertake a review or not to continue a review if satisfied the decision should be considered by the ART (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>requested, with the first 50 pages 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 <a href="#">as per schedule of fees for the Supreme Court</a> (see also s88).</p>	<p>processing 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>Appeal to Supreme Court on Commissioner or NTCAT decisions by a person aggrieved on <i>questions of law</i> only (s129)</p>	<p>or processing charge if only documents sought contain personal information.</p> <p>Access charges may apply under RTI Act.</p> <p>Internal agency review (no fee).</p> <p>EXTERNAL REVIEW:</p> <p>External review by IC: free.</p> <p>Application fee for QCAT appeal on question of law: \$392.40.</p>	<p>EXTERNAL 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</p>	<p>circumstances.</p> <p>No fee on applications for external review.</p> <p>There is no right of appeal under the Act, only a right to appeal to the Supreme Court on a question of law.</p>	<p>Regulations)</p> <p>Fees and charges 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</p>	<p>applicant)</p> <p>Agencies can impose charges for dealing with an access application for non-personal information (s16 FOI Act)</p> <p>Charges must be calculated by an agency in accordance with the <i>Freedom of Information Regulations 1993</i> (WA)</p> <p><b>Internal review</b> An aggrieved person may seek internal review of an agency’s decision (s39 FOI Act) – no fee or charges</p> <p><b>External review</b> An aggrieved person may seek external review of an agency’s internal review decision or decision of the agency’s principal officer (s65 FOI Act) – 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(6) FOI Act)</p> <p>Commissioner can make a costs order on external</p>

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						<p>(s40(8)(a)).</p> <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 (\$71.60).</p>		<p>'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 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 in exceptional cases (s84 FOI Act)</p> <p><b>Review by the Supreme Court</b></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 FOI Act)</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 FOI Act)</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 FOI Act)</p>

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<b>INTEGRITY Commissioner appointment and removal</b>	<p>Appointment by Governor General – s14(1) AIC Act</p> <p>Removal Governor General on grounds AIC Act s20</p>		<p>Appointed by the Governor (s4(1) GIIC Act)</p> <p>Removal (or suspension) by the Governor (s8 GIIC Act)</p>		<p>Appointment by Governor in Council (s134(1))</p> <p>Removal by Governor on address from Assembly (s161(1))</p>			<p>Appointment of IC by Governor in Council, on recommendation of Minister (s6C).</p> <p>Appointment of DC by Governor in Council (s6D)</p> <p>5 year appointment of IC and DC, on t&amp;c's determined by Governor in Council (ss6E, 6F). Maximum 2 terms.</p> <p>Suspension by Governor in Council, if satisfied IC unfit to hold office (s6N)</p> <p>IC removal by Governor in Council, if each House of Parliament resolves to remove (s6N)</p> <p>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)</p>	<p>Appointed by the Governor (s5 IC Act)</p> <p>Suspension/removal by the Governor (s21 IC Act)</p>

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<b>Commission - Integrity role and mandate</b>	OAIC recognised as an integrity agency within Cth Integrity Agency Forum  Mandate s7 of the AIC Act		Recognised as an integrity agency for the purposes of the <i>Public Interest Disclosures Act 2022</i>		OIC as an integrity agency in Queensland. Mandate (Chapter 4, Part 2-4) IC not subject to direction by anyone in exercising functions under RTI Act (s126).			OVIC recognised as an integrity body, subject to oversight by Integrity Oversight Victoria.  Mandate ss6G, 6H, 6I	Member of the Accountability Agencies Collaborative Forum  No legislative mandate
<b>Commission-Independence - funding</b>	Funding provided by direct appropriation.		Funding provided by grant from a Principal Department through State budget process		Funding provided by appropriation through budget process under Departmental allocation. Request for funding to be made through Parliamentary Committee (Chap 4, Part 7, Div 1).			Funding allocated by Department, through Department's annual appropriation (not independent).	Funding primarily provided by State Government - Attorney General is the responsible Minister
<b>Commission - Independence - staffing</b>	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)	Public Service Officers appointed or made available (under the <i>Public Sector Management Act</i> ) (ss 29-30 IC Act)
<b>Commission - Independence – reporting powers and requirement to report</b>	AIC Act s 7(a) AIC provides reports to the Minister (no provision for reports other than annual report via PGPA Act (s46) to Parliament)  AIC required to		Required to report to Parliament annually on the operation of the GIPA Act (s37 GIIC Act)  Required to prepare annual report on the		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	Commissioner reports to Parliament – annual report (s32 IC Act)

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	provide annual report to be given to the Minister s30 AIC Act		<p>exercise of Commissioner 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>		Parliamentary Committee (s184) IC reports to parliamentary committee on outcome of audits and reviews (s131).			<p>(61T)</p> <p>IC required to 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>	
<b>Parliamentarian right to request Commission</b>	Via Appearance before Senate Committee and Question on Notice process.				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.	The Standing Committee on Public Administration (Legislative Council) consults with the OIC and makes recommendations for the OIC to implement. The Committee reports on various matters including the effectiveness of public administration, procedural fairness in decision making and review of administrative decisions

**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 FOI Commissioner replace the internal review process