

VICTORIAN LEGAL ADMISIONS BOARD

FREEDOM OF INFORMATION POLICY

Dated

2 July 2018

Introduction

The Freedom of Information Act (1982) (Victoria) ("the Act") provides a legally enforceable right of access to documents in the possession of Government Agencies and Ministers.

In the Freedom of Information Regulations 2009, Regulation 5, each body specified in the Schedule to the Regulations *"is declared to be a prescribed authority for the purposes of the Act"*.

Policy

This policy relates to any requests for access to files held by the Victorian Legal Admissions Board (the **Board**).

S13 - Right of Access. Every person has a legally enforceable right to obtain/seek access in accordance with The Act to a document of an agency. However the Board's policy is that any document released may be issued by direct release outside of the Act.

Any document that is deemed available for direct release (whether subject or not to the Act) will be by photocopy or by visual sight only.

All other Victorian Legal Admissions Board Documents

The Board's policy is that various documents will not be released as per the exemptions of the Act including the internal working documents and personal affairs exemptions (where disclosure is unreasonable). This may include:

- internal and external working documents including emails, files notes and communication which contain opinion, advice or recommendation (S30(1)(a)) where release is contrary to public interest.
- emails, letters or other correspondence
- The Board and any other committee minutes of meetings
- This does not apply to documents containing purely factual material (S30)

Documents - Archival

The Board's policy on all documents that have been archived is that availability will be as per the terms of this policy. No retrieval fee will be applied. As these documents are maintained by an external third party provider, archive recovery is outside of the control of the Board and may impact on processing time.

Procedure for Requests under FOI

S17 of The Act sets out the requirements for a valid FOI request. S17(3) states that we have an obligation to assist all persons in making a request in a manner that complies with S17. If a request is too vague, too wide, ambiguous, we have the right to refuse to process the request (S17(4)).

The Freedom of Information (Access Charges) Regulations 2009 sets out access charges for all FOI requests.

All requests for FOI must be in writing, electronic or otherwise. Verbal requests cannot be made (S17(1)). If a document is subject to FOI, the following steps are to be taken:

1. Contact the third party and ask for their views on releasing the document (S33 (2A) (S 34)). If the third party does not have an issue with release then the document can be directly released as if it is no longer subject to the Act. *(Any document request where the Board are considered the third party (i.e. internal working documents) will be assessed on an individual basis by the Board).*
2. If the third party has issue with direct release, obtain written advice on what their concerns are and proceed under FOI.

Contact the applicant and tell them that the document needs to be applied for under FOI:

1. Apply in writing, electronic or otherwise and state that they wish to access the document under FOI. All requests must be clearly stated and specific to which documents are being requested.
2. Pay a \$28.90 application fee (two units - \$14.45 each – rounded down) (bank cheque or money order payable to *"The Victorian Legal Admissions Board"*). S17(2B) of the Act states the application fee may be waived or reduced if payment would cause hardship to the applicant. A request for waiver of fees must be in writing and include evidence such as a social security concession card, health benefits card, evidence of unemployment etc.

The FOI Act provides for additional access charges as set out below. If the fee is likely to exceed \$50, the applicant must be notified and given the opportunity to decide whether to proceed. If they continue with the application then a deposit must be sought (S22(3)), Act and Regulation 8, (Access Charge Regulations). Deposit amounts will be \$25 for charges of \$50-\$100 or 50% of the estimated charge if it exceeds \$100.

Supervision charges: \$5 per quarter hour
Photocopying charges: 20c per black and white A4 page

3. Provide the applicant with a photocopy of the charges, or if electronic, a link to the FOI Act and Office of the Victorian Information Commissioner's (OVIC) website.

http://www.austlii.edu.au/au/legis/cth/consol_act/foia1982222/

<https://foicommissioner.vic.gov.au/>

4. Go through each document and decide if there is any material within the document that cannot be directly released by crossing out the relevant parts using a black permanent marker (S25).
5. Release a copy of the document. Release will only be available by direct release to the individual requesting release. An in person ID check must be obtained via the Document Verification Service using original ID documents. See the Board's website for a full list of acceptable documentation.
<https://www.lawadmissions.vic.gov.au/admission-procedure/identification>. In circumstances where an applicant resides over 100kms from the Melbourne CBD, a certified copy of ID documents must be received. Once verified, the documents will be issued by mail; postal or electronic.

Timelines

S21 of the Act states that agencies shall take all reasonable steps to notify an applicant of a decision on a request as soon as possible but in any case not later than 30 days after the receipt of the request. These are calendar days and include weekends and public holidays. The exception is archival requests.

References

- FOI Act http://www.austlii.edu.au/au/legis/cth/consol_act/foia1982222/
- OVIC <https://foicommissioner.vic.gov.au/>

Further Information

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