



FREEDOM OF INFORMATION - External Review by the Ombudsman

This information sheet has been created to help parties understand the external review process under the *Freedom of Information Act 1991* (the FOI Act).

The parties

The parties in an external review are the applicant, the agency, and any interested parties (that is, parties who must be consulted under the FOI Act).

The SA Ombudsman's role

The Ombudsman's role is to independently review the determination made by the agency about the documents under the FOI Act. This is free of charge. The FOI Act may be found at:

<http://www.legislation.sa.gov.au/LZ/C/A/FREEDOM%20OF%20INFORMATION%20ACT%201991.aspx>

The review process

After receiving an application for external review, we may request the agency to provide background information; copies of the documents under review; and a report justifying its determination. We examine the documents and decide how best to conduct the review.

The agency and the applicant are required by the FOI Act to cooperate in the review process, and do anything that is reasonably required to expedite the process.

At any stage of the review, we may ask the parties for submissions; try to achieve a settlement; or narrow the issues in dispute. This can be done in writing, at a meeting, or over the telephone.

Submissions from the parties

To progress a review as efficiently as possible, we will usually ask the parties to respond to requests for submissions by a due date. If you intend to seek legal advice, you should do so promptly.

If you are unable to respond by a due date, you may request an extension. You will need to explain why you cannot comply. The Ombudsman will then decide whether or not to grant an extension. Extensions will not be granted automatically. It is the parties' responsibility to provide their submissions by the due date.

It is important that your submissions always include complete and accurate information. This is because the Ombudsman may finalise the review without contacting you again.

Please note that your submissions (except material which has been claimed to be exempt) may be provided to the other parties in the review.

The Ombudsman's determination

The Ombudsman may make a determination to confirm, vary or reverse the agency's determination, taking into account the circumstances at the time of the review. The determination will be based on the contents of the documents; the parties' submissions; the applicable law; and any other information we consider relevant. Often, before making the determination, the Ombudsman will release a provisional determination to the parties for their comment and further submissions, before reaching final views about the agency's determination.

Publishing a determination

The Ombudsman may publish an external review determination if it is considered to be in the public interest to do so. This may include publishing any of the parties' names.

How long will it take?

We aim to complete an external review within four months.

Appeal rights

The parties in an external review may seek a review of the Ombudsman's determination in the South Australian Civil and Administrative Tribunal (SACAT), as set out in section 40 of the FOI Act.

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