



FREEDOM OF INFORMATION PROCEDURES MANUAL

CONTENTS

Introduction.....	4
Process prior to Lodgement of a Formal FOI Application.....	4
Lodgement of a Formal Application.....	5
Within 1 day of the application being received.....	5
Within 3 days of the application being received.....	6
Within 10 days of the application being received.....	7
Within 14 days of the application being received.....	7
Within 17 days of the application being received.....	7
Within 24 days of the application being received.....	8
Within 31 days of the application being received.....	8
Summary of Time Limits (Normal Application)..	9
Summary of Time Limits (Significant Volume of Work).....	11
Summary of Time Limits (Third Party Involvement).....	12
Decision-maker’s responsibilities.....	13
Summary of Decision-maker’s responsibilities.....	14
Internal Review.....	15
External Review.....	16
Request by Applicant for Reduction in Time.....	16
Extension of Time.....	17
Application to Amend Personal Information.....	17
Exempt Documents.....	18
Section 1 - Clauses relevant to the City of Cockburn.....	18
Clause 3 - Personal Information.....	18
Clause 4 - Commercial or Business Information.....	19

Clause 5 - Law Enforcement, Public Safety and Property Security.....	20
Clause 6 - Deliberate Process.....	20
Clause 7 - Legal Professional Privilege.....	21
Clause 8 - Confidential Communications.....	21
Clause 11 - Effective Operation of Agencies.....	21
Section 2 - All Other Clauses	21
Clause 1 - Cabinet and Executive Council.....	21
Clause 2 - Inter-Governmental Relations.....	21
Clause 9 - The State's Economy.....	21
Clause 10 - The State's Financial or Property Affairs.....	22
Clause 12 - Contempt of Parliament or Court.....	22
Clause 13 - Information as to Adoption or Artificial Conception.....	22
Clause 14 - Information protected by certain Secrecy Provisions.....	22
Clause 15 - Information as to precious metal transactions.....	23

INTRODUCTION:

The *Freedom of Information Act 1992* (the Act) gives individuals, corporations and businesses the right to apply for access to documents held by Public Sector agencies which include Government Departments, State Boards and Commissions, Statutory Authorities through to Local Government Authorities. Under the Act, the City of Cockburn is required to assist an applicant obtain access to documents at the lowest reasonable cost, and to ensure that personal information and records held by the City are accurate, complete, up to date and not misleading.

The City is also required to define the scope of application with the applicant and take reasonable steps to help the applicant to change the scope of the application if the scope is too wide where a disproportionate amount of resources is required to fulfil the application. The application may be refused in the event the City considers that unreasonable portion of the City's resources will be diverted from its other operations.

The City may transfer the application to another agency (where appropriate).

The City is also obliged to ensure that reasonable steps have been taken to identify matters that are exempt under the Schedules of the Act.

The FOI Coordinator has been delegated to monitor the timeframe and to ensure that personnel, especially Managers (the decision-makers), involved in a Freedom of Information (FOI) application are aware of their obligations and responsibilities under the Act.

Managers of various sections within the City have been delegated as Decision-Makers to evaluate and determine which documents pertaining to the application are to be granted full or part access or refuse release of documents dependant on the exemptions under the Act.

PROCESS PRIOR TO LODGEMENT OF A FORMAL FOI APPLICATION:

1. **'Decision-maker' (i.e. the relevant Manager):** Managers must handle queries regarding the release of information other than the actual FOI process.

It is in the officer's interest to provide as much assistance as possible to avoid the need for an FOI application. In particular, if the scope of the application can be modified (to a reduced scope), the tasks/work that will have to be performed will be reduced.

2. **FOI Coordinator:** The FOI Coordinator assists applicants and decision-makers with enquiries in relation to the Freedom of Information process (i.e. provide application forms and organise liaison with the correct 'decision-maker').

If the 'decision-maker' believes information should be released only under F.O.I., the FOI Coordinator will initially require involvement from the 'decision-maker', in regards to the scope of the application and an estimate of costs.

Important:

- **Please ensure file notes are recorded of all conversations relevant to the processing of the application.**
- **Please ensure a log (i.e. record time taken) of all tasks undertaken during the processing of the application.**
- **If it appears that any of the given time limits on the attached procedures cannot be met, the FOI Coordinator must be advised immediately. (The FOI Coordinator will take the appropriate steps and will contact the Information Commissioner if necessary.)**

LODGEMENT OF A FORMAL APPLICATION:

1. All applications must be received in writing and accompanied by a \$30 application fee. This application fee is non-refundable, irrespective of the outcome – or future charges – in relation to the application.

- a. Records Services will create the corporate file where the initial application will be stored.
- b. Records Services will place the original application form on a working file and the FOI Coordinator will be assigned the item on RecFind/RecQuery.
- c. This working file will be forwarded to the FOI Coordinator to initiate the application.
- d. Records Services will e-mail (a copy) of the request to the FOI Coordinator, the Directors and the Chief Executive Officer and any known ‘decision-maker’s’.
- e. The application fee will be receipted (either at the front counter or via cheque listing) and the application fee receipt (from the Cashier) should be forwarded to the FOI Coordinator (to be kept in the working file cover until the acknowledgement letter is sent).
- f. The FOI Coordinator should ensure that any e-mails pertaining to the application are printed off and a copy lodged on the file.
- g. The FOI Coordinator will then prepare a draft letter with only the scope details to be finalised by the ‘decision-maker’. See step 2...

Within 1 day of the application being receipted.

2. The FOI Coordinator will immediately provide the ‘decision-maker’ with a copy of the application and the draft acknowledgement letter. The ‘decision-maker’ will then have two days (the acknowledgement letter must be sent within three days of receipt) to:

- a. **Accept the application with the scope ‘as-is’, or**

b. Write to the applicant to obtain a revised scope in writing.

- The FOI Coordinator and the ‘decision-maker’ must make sure file notes are created and retained (initially in the working folder) regarding any phone/verbal conversations with the applicant or any third party.
- If an applicant is contacted and will not revise the scope, there may be options for the City to refuse the application altogether.
- If possible, the Manager (i.e. not a Director) should liaise with the applicant to determine the scope. If a Director is involved in the making of any decisions, the Chief Executive Officer will then be responsible for any internal reviews.
- If, by 3:00 pm on the 3rd day, a decision hasn’t been made or advice hasn’t been given to the FOI Coordinator, the scope will have to be accepted ‘as-is’.
- If a substantial amount of work will be involved, ‘advance deposits’ can be requested before proceeding

3. It is the ‘decision-maker’s’ responsibility to ensure the scope is provided to the FOI Coordinator within the three day time limit (i.e. before 2:30 p.m. on the 3rd day).

- a. The FOI Coordinator will send the acknowledgement letter to the applicant including:
 - i. the scope (as agreed to by the applicant and the City),
 - ii. a copy of the application form (and a copy of the tax invoice receipt if it has not already been provided) and
 - iii. an estimate of the additional charges (if requested by the applicant).
- b. The FOI Coordinator will lodge copies of the outward acknowledgement letter on the file with a copy of the receipt.

Within 3 days of the application being received.

4. After the acknowledgement letter with the agreed scope has been sent to the applicant, the ‘decision-maker’ (i.e. the Manager) should compile all the documentation relative to the scope of the request. It is the decision-maker’s responsibility to LOCATE all records by notifying Records Section of the documents required.

- a. Records Services are available to assist in providing manual files and performing electronic searches to help locate files and documents.
- b. The decision-maker will need to peruse the files and electronic reports to determine which documents fit within the scope and which don’t.
 - If photocopying is involved, ensure the documents to be photocopied are clearly marked and easy to identify for Records Services staff.
 - The decision-maker must provide records services with the copies of the documents or clear instructions what documents need to be printed within a week (i.e. 5 working days) of the acknowledgement letter being sent.

Within **10** days of the application being receipted.

5. Records Services then has up to 4 days to print/copy all the documents located by the decision-maker at step 4 above.

- a. Records Services will ensure a copy of each document is printed to a single-sided piece of paper (future 'artline marker' notations need to be considered). Each page will be individually numbered and a copy of the documents is to be scanned at this point.
- b. Save (i.e. modify the initial application CTR number) the scanned image as a file note on the initial application.
- c. Change the description of this attachment to ***** FILE NOTE - 1st draft of documents**

Within **14** days of the application being receipted.

- **Time spent on the tasks below can be charged to the applicant, the above cannot.**
- **All officers should keep a detailed log of their actions. (Start & finish times spent performing FOI-specific tasks).**
- **The FOI Coordinator and the 'decision-maker' must make sure file notes are created and retained (initially in the working folder) regarding any phone/verbal conversations with the applicant or any third party.**

6a. After all pages have been numbered and scanned, the FOI Coordinator must create a listing of all documents printed/copied. This document must be produced and included in the final response; hence, it is a must that production of this list begins immediately.

- Use the template provided by the FOI Commissioner's office.
- *(Records Officers can assist with applications involving numerous documents)*

Within **17** days of the application being receipted.

6b. The 'decision-maker' and FOI Coordinator together, have to segregate the documents into the categories to determine which documents are to be released in full or in part or are exempt under the Schedule or involve third party information in the table below. Within the next week, contact must also be made with the third parties in writing (as they must be given time to consider their options and their response).

- The FOI Coordinator will help the decision-maker to make written contact with third parties; however, it is usually best that the decision-maker phone the third parties direct. The decision-maker should know the intricacies about the issues and they will (more than likely) have previously had contact with the third party.
- If a third party does not consent to disclosure, they must provide reasons and discuss their objections with the decision-maker (and/or the FOI Coordinator for larger applications). A written response is required from the third party.

<p><u>Non-third-party documents</u> (segregate these into ‘disclose’ and ‘not to disclose’)</p>	<p><u>Third party documents</u> (segregate into “disclose” and “not to disclose”). It is not necessary to contact third parties of documents that are not being disclosed, however, it is imperative that third parties are contacted if disclosure is recommended.</p>
<p>FOI Coordinator can update details on the spreadsheet listing for these items.</p>	<p>Make the initial contact with the third parties to obtain authorisation in writing to release the documents. It is important that the third party (or parties) be made aware that they must respond within a specified time limit (check this with FOI Office) otherwise the City will assume a non-reply to be authorisation to disclose.</p> <p><i>* File notes of all phone conversations must be retained.</i></p>

NOTE: Exempt documents

If any documents are deemed exempt under the any Schedule of the Act the documents will not to be released and the applicant advised accordingly.

Within **24** days of the application being receipted.

7. **A week is made available here for any third party (or parties) to peruse documents and discuss their objections with City staff. It is imperative that it not be used to ‘make-up’ for days lost in processing steps 1-6 above.**
8. During this time, the FOI Coordinator can continue preparing the document listing (i.e. the spreadsheet with all documents listed on it to be sent as a part of the final reply).

Within **31** days of the application being receipted.

➤ *If the City of Cockburn decides to give access against a third party's wishes, the FOI Coordinator must advise the third party (again) of this decision and advise them of their rights of appeal. Further time must therefore elapse before the final documents are disclosed. The FOI Commissioner's office will advise if an appeal has been lodged and he/she will expedite the decision regarding these documents. If the 45 day time limit is approaching, the FOI Commissioner should be consulted as to whether or not the other documents can be released separately from those that are subject to the appeal.*

9. At this stage, all the documents will be numbered and sorted. The FOI Coordinator should provide these to Records Services to be scanned in the following categories.
 - a. those being released.
 - b. those not being released, and
 - c. those where the City has decided to release them, even though the third party has objected to their disclosure.

The Coordinator will vet all identified documents for release to ensure any third party information is not observable before forwarding to the applicant.

10. The final response should be "as ready as possible" to be sent or collected prior to requesting payment of fees (just in case the applicant agrees to pay and wants to pick-up their documentation immediately).
 - a. The FOI Coordinator must prepare the (draft) final letter with the document listing included. If the City's decision to release documents changes, the contents of the final letter will need to change accordingly.
 - b. Records Services must scan the documents creating three (3) .tif documents:
 1. Documentation being released, 2. Documentation not being released, and,
 3. Documentation requiring further evaluation (if any). If there are no documents requiring further evaluation, the letter requesting payment of the additional fees and charges can be sent immediately to the applicant. The FOI Coordinator must CTR this letter when it is sent.
 - c. When the additional fees and charges have been paid, the FOI Coordinator should PRINT a copy of the "Documentation being released". The original (i.e. edited) 'copies' must be retained on the corporate file.

Summary of Time limits: (Normal application)

1. All applications must be received in writing accompanied by a \$30 application fee. Payment will be receipted (front counter or via cheque listing) & assigned to the FOI Coordinator in RecFind (via Records Services).
2. Scope to be accepted or determined by relevant line manager.

** Make sure file notes are retained regarding any liaison with the applicant.*

<p>3. Acknowledgement letter to be sent to applicant by 3:00 p.m. on the third day following receipt.</p> <p style="text-align: center;"><u>Within 3 days of receipt (i.e. maximum 3 days)</u></p>
<p>4. The ‘decision-maker’ and FOI Coordinator are to identify all documents relative to the scope.</p> <p style="text-align: center;"><u>Up until the 10th day after receipt (i.e. maximum 7 days)</u></p>
<ul style="list-style-type: none"> ➤ Time spent on the tasks below can be charged to the applicant, the above cannot. ➤ All officers should keep a detailed log of their actions. (Start & finish times spent performing FOI-specific tasks). ➤ The FOI Coordinator and the ‘decision-maker’ must make sure file notes are created and retained (initially in the working folder) regarding any phone/verbal conversations with the applicant or any third party.
<p>5. Records Services will then provide all the documents (page-numbered) to the FOI Coordinator. These documents must be single-sided (due to future ‘artline’ markings affecting 2-sided documents)</p> <p style="text-align: center;"><u>Up until 17th day after receipt (i.e. maximum 7 days)</u></p>
<p>6. The ‘decision-maker’ – with assistance from the FOI Coordinator re non-disclosure clauses, etc... - then has to:</p> <p>a) Segregate the documents into the following categories.</p> <ul style="list-style-type: none"> i) <u>Non-third-party</u> documents (segregate these further into ‘disclose’ and ‘not to disclose’) ii) <u>Third party documents</u> (segregate into “disclose” and “not to disclose”). It is not necessary to contact third parties of documents are not being disclosed, however, it is imperative that third parties are contacted if disclosure is recommended. <p>b) Make the initial contact with the third parties to obtain authorisation to release the documents..</p> <ul style="list-style-type: none"> ➤ It is best that the line manager make contact with third parties as this person should know the intricacies about the issues and he/she will (more than likely) have previously had contact with the third party. ➤ It is important that the third party (or parties) be made aware that they must respond within a specified time limit <p style="text-align: center;"><u>Up until the 24th day after receipt (i.e. maximum 7 days)</u></p>
<p>7. A week is available for any third party (or parties) to peruse documents and discuss their objections.</p> <p>8. During this time, the FOI Coordinator can begin/continue preparing the document listing.</p> <p style="text-align: center;"><u>Up until the 31st day after receipt.</u></p>
<p>9. At this stage, the FOI Coordinator will have sorted the documents into;</p> <ul style="list-style-type: none"> a). those <u>being released</u>, and those <u>not being released</u>, and b). those where <u>the third party has objected to disclosure</u>.
<p>10. If there are no documents in category 9b), the letter requesting payment of the additional fees and charges can be sent immediately to the applicant. However, the final response should be ready to be sent or collected prior to this letter being sent (just in case the applicant wants to pay and pick them up immediately).</p>
<ul style="list-style-type: none"> ➤ If the City of Cockburn officers decide to give access against a third party’s wishes, the FOI Coordinator must advise the third party of this decision and advise them of their rights of appeal. Further time must also elapse before the final documents are disclosed. The FOI Commissioner will advise if an appeal has been lodged and he/she will expedite the decision regarding these documents. If the 45 day time limit is approaching, the FOI Commissioner should be consulted as to whether or not the other documents can be released separately from those that are subject to the appeal.

Summary of Time limits: (Significant volume of work)

Ensure file notes are retained re ANY liaison with the applicant and/or any third party (or parties).

Ensure 'action logs' are retained by all staff who participate in the application/request process.

1. Acknowledgement letter to be sent to applicant by 3:00 p.m. on the third day following receipt.
 - If the application involves a significant volume of work, a deposit can be requested from the applicant before any processing begins. There may also be options for the City to refuse the application altogether, however, this should be an option if the FOI Commissioner has been consulted. If the applicant requests an estimate of the additional fees and charges, details must be included in the initial acknowledgement letter.

maximum 3 days.

2. The 'decision-maker' and FOI Coordinator are to identify (i.e. print) all documents relative to the scope. If copies are required from manual documents, please ensure they are clearly marked and identifiable for Records staff.

maximum 7 days.

3. Records Services will then provide all the documents (single-sided & page-numbered) to the FOI Coordinator. A copy of all these documents (unedited) will be scanned as a backup copy.

maximum 7 days.

4. The 'decision-maker' – with assistance from the FOI Coordinator - then has to segregate the documents and also has to make contact with all third parties (on the documents that he/she has decided to release).

maximum 7 days.

5. A (minimum) week is made available here for any third party (or parties) to peruse documents and discuss their objections with the 'decision-maker' /manager, especially where written correspondence has been entered into.
6. During this week, the final response should be prepared (as much as possible) and ready to be sent or collected. The document listing (i.e. of ALL documents relative to the request) should be created by now. The edited and grouped documents should be given to Records Services to be scanned.
7. When there are no outstanding objections from 3rd parties, the letter requesting payment of the additional fees and charges should be sent immediately to the applicant.

maximum 7 days.

8. If there are no further objections from third parties (i.e. the City and all third parties agree regarding the disclosure and release of the documents) the letter requesting payment of the additional fees and charges should be sent immediately to the applicant.
9. When the additional fees and charges have been paid, the final response can be sent. The FOI Coordinator should ensure a SCANNED copy of the final response is retained and CTR'd on RecFind.

immediately.

10. If there are still documents where the 'decision-maker' decides to give access against a third party's wishes, the FOI Coordinator must advise the third party of this decision and advise them of their rights of appeal (i.e. directly to the FOI Commissioner). Further time must elapse so that the Commissioner can direct City of Cockburn staff before the final documents are disclosed. After consultation with the

<p>Commissioner, complete the application (i.e. complete steps 8 & 9)</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>➤ The Records Coordinator should be advised <u>immediately</u> if it is evident that any of the above time limits cannot be met. If the total 45 day time limit does not seem like it will be met (at any stage), the FOI Commissioner should be consulted immediately for an extension of time or for alternate advice.</p>

Summary of Time limits: (Third Party Involvement)

<p><u>Ensure file notes are retained re ANY liaison with the applicant and/or any third party (or parties).</u></p> <p><u>Ensure 'action logs' are retained by all staff who participate in the application/request process.</u></p>
<p>1. Acknowledgement letter to be sent to applicant by 3:00 p.m. on the third day following receipt.</p> <p style="text-align: center;"><u>maximum 3 days.</u></p>
<p>2. The 'decision-maker' and FOI Coordinator are to identify (i.e. print) all documents relative to the scope.</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>3. Records Services will then provide all the documents (single-sided & page-numbered) to the FOI Coordinator.</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>4. Segregate the documents and make contact with all third parties (on the documents being released).</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>5. The final response and document listing should be prepared (as much as possible) and ready to be sent or collected. The edited and grouped documents should be given to Records Services to be scanned.</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>6. When there are no outstanding objections from 3rd parties, the letter requesting payment of the additional fees and charges should be sent immediately to the applicant.</p> <p>7. When the additional fees and charges have been paid, the final response can be sent. The FOI Coordinator should ensure a SCANNED copy of the final response is retained and CTR'd on RecFind.</p> <p style="text-align: center;"><u>immediately.</u></p>
<p>8. If there are still third party issues, further time must elapse so that the Commissioner can direct City of Cockburn staff before the final documents are disclosed.</p> <p style="text-align: center;"><u>maximum 7 days.</u></p>
<p>➤ The Records Coordinator should be advised <u>immediately</u> if it is evident that any of the above time limits cannot be met. If the total 45 day time limit does not seem like it will be met (at any stage), the FOI</p>

Commissioner should be consulted immediately for an extension of time or for alternate advice.

Freedom of Information applications are the responsibility of the decision-maker. Just because they are lodged as FOI applications, doesn't mean that Managers can absolve themselves from this responsibility – at any point in the process.

The FOI Coordinator's role is to assist the decision-maker and to ensure they are meeting all compliance aspects. The Records Manager's responsibility is to ensure all documents relevant to the scope in the corporate record keeping system are retrieved as per the decision-maker's instructions. A casual records officer will be made available to assist with copying, printing, scanning, page-numbering and will assist the FOI Coordinator to create the document listing.

Decision-maker's responsibilities:

1. Ensure the scope of the initial request is confirmed with the applicant within three days of receiving the application. The FOI Coordinator will send an acknowledgement letter at the end of the third day. The Records Manager and FOI Coordinator can assist the decision-maker if the scope is large or too broad and the amount of resources that would be required to complete the request is exorbitant.

Above to be completed within 3 days. (3 days in total)

2. Advise relevant staff (and other unit Managers) that they have a week to provide single-sided copies of all records (relevant to the scope) to the decision-maker.
3. Advise the Records Manager of what files will be required from the Recordkeeping system. The Records Manager has one week to provide these to the decision maker.
- After the 10 days above, the decision-maker should have all the files from the Records Manager and all the documents from action officers (including themselves) and other Managers.

Above to be completed within next 7 days. (10 days in total)

4. The decision-maker then has another week to peruse the records and to ensure copies (single-sided) of the documents relevant to the scope are compiled. A casual records officer will be made available to assist with copying, printing, scanning, page-numbering and also to assist the FOI Coordinator to create the document listing.

Above to be completed within next 7 days. (17 days in total)

5. The (single-sided) copy of the documents will be made available to Records Services, who then have a week to ensure these documents are page numbered, scanned and a document listing is provided to the FOI Coordinator.

Above to be completed within next 7 days. (24 days in total)

6. The copy of the page-numbered documents will be provided to the decision-maker (by the FOI Coordinator) and between the decision-maker and FOI Coordinator, they will need to determine which documents contain third party information and/or exempt matter.

Above to be completed within next 7 days. (31 days in total)

7. The decision-maker will have made the decision (whether to consult, withhold, etc...) above. The decision/maker is then responsible for consulting with third parties and if editing of documents is required,(decision on this to be made by SBMG)

Above to be completed within next 14 days. (45 days in total)

Summary of Decision-maker's responsibilities:

1. Ensure the scope of the initial request is confirmed with the applicant. **(3 days in total)**
2. Advise relevant staff & the Records Manager (to retrieve records). **(10 days in total)**
3. Peruse the records and ensure single-sided copies of the documents – i.e. only those relevant to the scope - are compiled. A casual records officer will be made available to assist. **(17 days in total)**
 - Records Services will then ensure these documents are page numbered, scanned and a document listing is provided to the FOI Coordinator. **(24 days in total)**
4. The decision-maker (with the FOI Coordinator's assistance), will need to determine which documents contain third party information and/or exempt matter. **(31 days in total)**
5. The decision-maker will have made the decision (whether to consult, withhold, etc...) above. The decision/maker is then responsible for consulting with third parties and if editing of documents is required,(decision on this to be made by SBMG)

Above to be completed within next 14 days. (45 days in total)

<u>By Day</u>	<u>What should happen</u>	<u>What has happened</u>
1	FOI COORDINATOR: Ensure payment received and application in correct written format.	
3	DECISION MAKER: Ensure scope is acceptable (contact applicant if it is not and discuss reducing the scope)	
4	FOI COORDINATOR: Send acknowledgement letter to applicant with scope as per step above.	
10	DECISION MAKER: Contact Records Manager to have all documents retrieved	

	from Corporate RMS (specific instructions and locations to be provided).	
17	DECISION MAKER: Retrieve all records not in Corporate RMS. Black out any information necessary. Provide a copy (one-sided) to the Records Manager. RECORDS: Retrieve all records as instructed at step above.	
23	RECORDS: Provide a (one-sided) copy of all the documents with a LISTING of the documents to the FOI Coordinator.	
24	FOI COORDINATOR: Amend the document listing and segregate and sort the records: a. To be released (no 3 rd party) b. To be released (3 rd party incl.) c. Not to be released (3 rd party) d. Not to be released (other) • The DECISION-MAKER (or delegate) will need to be involved in this part of the process as he/she will know who the third parties are, etc...	
25 th day to the 39 th day	• This is where the decision-maker may need to spend some time on the application. If only written correspondence is to be entered into, the FOI Coordinator can help with templates and letters.	
40 th day	• If any complaints, issues, etc... the FOI Commissioner should be contacted immediately.	

INTERNAL REVIEW:

In the event an applicant is aggrieved by the decision of the City the applicant may apply for an internal review of the decision under Sections 39, 40 and 54 of the Act.

Information must be provided to the applicant in the final notice of decision letter.

An application for internal review;

1. must be in writing;
2. give particulars of the decision to be reviewed;
3. specify an Australian address for correspondence and
4. be lodged at the agency's office within 30 days of being given a notice of decision.

Internal reviews need to be undertaken by an officer more senior or one of equal seniority to the initial decision-maker. The task of the internal reviewer is required to deal with the application as if it were an initial application and make a separate decision of the documents.

Under Section 43(1) of the Act the internal reviewer can decide to confirm, vary or reverse the decision under review.

The applicant must be notified of the decision on internal review within 15 days of the agency receiving the application.

EXTERNAL REVIEW:

In the event an applicant is aggrieved by the decision of the City via an Internal Review the applicant may apply for an External Review of the decision under Sections 66(2), 66(3), 67(1) and 69 of the Act.

Written complaints about decisions of the agency must be lodged to the Information Commissioner:

1. by applicants within 60 days and
2. by third parties within 30 days.

REQUEST BY APPLICANT FOR REDUCTION IN TIME:

If an applicant requires an early decision, the applicant should specify the time for the decision-making and convey the request to the City.

Under Section 13(4) of the Act, if no agreement can be reached the applicant may apply to the Information Commissioner.

The application must specify:

1. the steps that have been taken to reach an agreement with the City;
2. why the decision is needed within a given timeframe;
3. why the applicant believes the City is able to deal with the application within the timeframe requested;
4. the adverse consequences (if any) of not reducing the timeframe;
5. any other relevant factors.

EXTENSION OF TIME:

Under Section 13(3) of the Act when an agency requires extra time to deal with an access application the agency should attempt to reach agreement with the applicant and confirm it in writing.

Under Section 13(5) of the Act, if no agreement can be reached, the agency may apply to the Information Commissioner. The application must specify:

1. the steps that have been taken to reach agreement with the applicant;
2. why it is impracticable for the agency to deal with the application within the 'permitted' period of 45 days;
3. the period of time required to deal with the application;

Under Section 13(6) of the Act where an extension is granted, the agency must give written notice of the approved extension to the applicant as soon as practicable and within 45 days of receiving the access application.

APPLICATION TO AMEND PERSONAL INFORMATION:

If a person wishes to apply to the City to have personal information amended the following procedure is to be followed:

The application for amendment has to —

- (a) be in writing;
- (b) give enough details to enable the document that contains the information to be identified;
- (c) give details of the matters in relation to which the person believes the information is inaccurate, incomplete, out of date or misleading;
- (d) give the person's reasons for holding that belief;
- (e) give details of the amendment that the person wishes to have made;
- (f) give an address in Australia to which notices under this Act can be sent;
- (g) give any other information or details required under the regulations; and
- (h) be lodged at the City.

The applicant making the application has to state whether the applicant wishes the amendment to be made by —

- (a) altering information;
- (b) striking out or deleting information;
- (c) inserting information;
- (d) inserting a note in relation to information,

or in 2 or more of those ways.

EXEMPT DOCUMENTS:

Schedule 1 of the W.A. FREEDOM OF INFORMATION ACT 1992 contains details of records that are EXEMPT FROM DISCLOSURE. The following extract is a version of Schedule 1 that has been modified to make each clause as simple as possible to read. Also, the order in which the clauses are listed has been modified to ensure that those “most relevant to our organisation” are listed first in Section 1. Those that we would rarely deal with at the City of Cockburn are listed in Section 2.

SECTION 1 - Clauses Relevant to the City Of Cockburn

- *Clause 3 - Personal Information*
- *Clause 4 - Commercial Or Business Information*
- *Clause 5 - Law Enforcement, Public Safety And Property Security*
- *Clause 6 - Deliberative Process*
- *Clause 7 - Legal Professional Privilege*
- *Clause 8 - Confidential Communications*
- *Clause 11- Effective Operations Of An Agency*

SECTION 2 - Other Clauses

- *Clause 1 - Cabinet and Executive Council*
- *Clause 2 - Inter-Governmental Relations*
- *Clause 9 - The State’s Economy*
- *Clause 10 -The State’s Financial or Property Affairs*
- *Clause 12 - Contempt of Parliament or Court*
- *Clause 13 - Information as to Adoption or Artificial Conception*
- *Clause 14 - Information Protected by Certain Secrecy Provisions*
- *Clause 15 - Information as to Precious Metal Transactions*

SECTION 1 – CLAUSES RELEVANT TO THE CITY OF COCKBURN

Clause 3 - PERSONAL INFORMATION

Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).

Matter is not exempt matter merely because its disclosure would reveal personal information about the applicant.

Matter is not exempt matter merely because its disclosure would reveal, in relation to a person who is or has been an officer of an agency, prescribed details relating to —

- (a) the person;
- (b) the person's position or functions as an officer; or
- (c) things done by the person in the course of performing functions as an officer.

Matter is not exempt matter merely because its disclosure would reveal, in relation to a person who performs, or has performed, services for an agency under a contract for services, prescribed details relating to —

- (a) the person;
- (b) the contract; or
- (c) things done by the person in performing services under the contract.

Matter is not exempt matter if the applicant provides evidence establishing that the individual concerned consents to the disclosure of the matter to the applicant.

Matter is not exempt matter if its disclosure would, on balance, be in the public interest.

Clause 4 - COMMERCIAL OR BUSINESS INFORMATION

Matter is exempt matter if its disclosure would reveal trade secrets of a person.

Matter is exempt matter if its disclosure would reveal information (other than trade secrets) that has a commercial value to a person; and could reasonably be expected to destroy or diminish that commercial value.

Matter is exempt matter if its disclosure would reveal information (other than trade secrets or information ... about the business, professional, commercial or financial affairs of a person; and could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of that kind to the Government or to an agency.

Matter is not exempt matter merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of an agency.

Matter is not exempt matter merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of the applicant.

Matter is not exempt matter if the applicant provides evidence establishing that the person concerned consents to the disclosure of the matter to the applicant.

Matter is not exempt matter if its disclosure would, on balance, be in the public interest.

Clause 5 - LAW ENFORCEMENT, PUBLIC SAFETY & PROPERTY SECURITY

Matter is exempt matter if its disclosure could reasonably be expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; reveal the investigation of any contravention or possible contravention of the law in a particular case, whether or not any prosecution or disciplinary proceedings have resulted; enable the existence, or non-existence, or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be discovered; prejudice the fair trial of any person or the impartial adjudication of any case or hearing of disciplinary proceedings; endanger the life or physical safety of any person; endanger the security of any property; endanger the security of any property; prejudice the maintenance or enforcement of a lawful measure for protecting public safety; or, facilitate the escape of any person from lawful custody or endanger the security of any prison.

Matter is exempt matter if it was created by the Bureau of Criminal Intelligence, Protective Services Unit or Internal Affairs Unit of the Police Force of Western Australia; or, the Internal Investigations Unit of the Department of Corrective Services.

Matter is exempt matter if it originated with, or was received from, a Commonwealth intelligence or security agency.

Matter is not exempt matter if it consists merely of one or more of the following —

- (i) information revealing that the scope of a law enforcement investigation has exceeded the limits imposed by the law;
- (ii) a general outline of the structure of a programme adopted by an agency for dealing with any contravention or possible contravention of the law; or
- (iii) a report on the degree of success achieved in any programme adopted by an agency for dealing with any contravention or possible contravention of the law;

and

its disclosure would, on balance, be in the public interest.

“contravention” includes a failure to comply;

“the law” means the law of this State, the Commonwealth, another State, a Territory or a foreign country or state.

Clause 6 - DELIBERATE PROCESSES

Matter is exempt matter if its disclosure would reveal any opinion, advice or recommendation that has been obtained, prepared or recorded; or any consultation or deliberation that has taken place, in the course of, or for the purpose of, the deliberative processes of the Government, a Minister or an agency; and, would, on balance, be contrary to the public interest.

Clause 7 - LEGAL PROFESSIONAL PRIVILEGE

Matter is exempt matter if it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Clause 8 - CONFIDENTIAL COMMUNICATIONS

Matter is exempt matter if its disclosure would be a breach of confidence for which a legal remedy could be obtained. Matter is exempt matter if its disclosure would reveal information of a confidential nature obtained in confidence; and could reasonably be expected to prejudice the future supply of information of that kind to the Government or to an agency.

Clause 11 - EFFECTIVE OPERATION OF AGENCIES

Matter is exempt matter if its disclosure could reasonably be expected to impair the effectiveness of any method or procedure for the conduct of tests, examinations or audits by an agency; prevent the objects of any test, examination or audit conducted by an agency from being attained; have a substantial adverse effect on an agency's management or assessment of its personnel; or have a substantial adverse effect on an agency's conduct of industrial relations.

SECTION 2 - ALL OTHER CLAUSES

Clause 1 - CABINET AND EXECUTIVE COUNCIL

Matter is exempt matter if its disclosure would reveal the deliberations or decisions of an Executive body...

"Executive body" means: Cabinet; a committee of Cabinet, a subcommittee of a committee of Cabinet; or Executive Council

Clause 2 - INTER-GOVERNMENT RELATIONS

Matter is exempt matter if its disclosure could reasonably be expected to damage relations between the Government and any other government; or, would reveal information of a confidential nature communicated in confidence to the Government (whether directly or indirectly) by any other government.

"other government" means the government of the Commonwealth, another State, a Territory or a foreign country or state.

Clause 9 - THE STATE'S ECONOMY

Matter is exempt matter if its disclosure could reasonably be expected to have a substantial adverse effect on the ability of the Government or an agency to manage the economy of the State; or result in an unfair benefit or detriment to any person or class of persons because of the premature disclosure of information concerning any proposed action or inaction of the

Parliament, the Government or an agency in the course of, or for the purpose of, managing the economy of the State.

Clause 10 - THE STATE'S FINANCIAL OR PROPERTY AFFAIRS

Matter is exempt matter if its disclosure could reasonably be expected to have a substantial adverse effect on the financial or property affairs of the State or an agency.

Matter is exempt matter if its disclosure would reveal trade secrets of an agency, or information that has a commercial value to an agency; and could reasonably be expected to destroy or diminish that commercial value.

Matter is exempt matter if its disclosure would reveal information (other than trade secrets or information referred to in subclause (3)) concerning the commercial affairs of an agency; and could reasonably be expected to have an adverse effect on those affairs.

Matter is exempt matter if its disclosure would reveal information relating to research that is being, or is to be, undertaken by an officer of an agency or by a person on behalf of an agency; and would be likely, because of the premature release of the information, to expose the officer or person or the agency to disadvantage.

Clause 12 - CONTEMPT OF PARLIAMENT OF COURT

Matter is exempt matter if its public disclosure would, apart from this Act and any immunity of the Crown be in contempt of court; contravene any order or direction of a person or body having power to receive evidence on oath; or infringe the privileges of Parliament.

Clause 13 - INFORMATION AS TO ADOPTION OR ARTIFICIAL CONCEPTION

Matter is exempt matter if its disclosure would reveal information relating to the adoption of a child or arrangements or negotiations for or towards or with a view to the adoption of a child; or information relating to the participation of a person in an artificial fertilization procedure as defined in the *Human Reproductive Technology Act 1991* or as to a person having been born as a result of such a procedure.

Clause 14 - INFORMATION PROTECTED BY CERTAIN SECRECY PROVISIONS

Matter is exempt matter if it is matter of a kind mentioned in —

- (a) Section 167 ... of the *Equal Opportunity Act 1984*;
- (b) Section 64 ... of the *Legal Aid Commission Act 1976*; or
- (c) Section 23... of the *Parliamentary Commissioner Act 1971*.

Matter is exempt matter if it is matter to which a direction given under Section 23 (1a) of the *Parliamentary Commissioner Act 1971* applies.

Clause 15 - INFORMATION AS TO PRECIOUS METAL TRANSACTIONS

Matter is exempt matter if its disclosure would reveal information about gold or other precious metal received by Gold Corporation from a person, or held by Gold Corporation on behalf of a person, on current account, certificate of deposit or fixed deposit; or, a transaction relating to gold or other precious metal received or held by Gold Corporation.

“Gold Corporation” means the Gold Corporation constituted under Section 4 of the Gold Corporation Act 1987 or a subsidiary of Gold Corporation within the meaning of that Act.