FREEDOM OF INFORMATION

POLICY

JUSTICE AND COMMUNITY SAFETY DIRECTORATE

DOCUMENT INFORMATION

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Policy Custodian:	Executive Branch Manager, Governance and Business Improvement
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OVERVIEW

The JACS Freedom of Information policy ensures Justice and Community Safety Directorate (JACS) employees understand their responsibilities relating to access applications under the *Freedom of Information Act 2016* (the Act).

The policy further outlines the legislated timeframes, which **must** be adhered to, in the Directorate's response to the applicant.

The flowchart at Appendix A provides a concise overview of timeframes and actions involved in the FOI process.

UNCONTROLLED IF PRINTED

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1. PURPOSE

1.1 The purpose of this policy is to ensure Justice and Community Safety Directorate (JACS) employees understand their responsibilities relating to access applications under the *Freedom of Information Act 2016* (the Act).

1.2 For information relating to Open Access obligations under the Act refer to the Open Access Policy.

2. SCOPE

2.1 This policy applies to all JACS personnel including permanent and temporary ACT Government personnel and executives.

2.2 Statutory office holders (SOHOs) who process their own access applications will manage these in accordance with their own policies and procedures in line with the requirements of the Act and are not required to apply the procedures outlined in this policy; however, they are encouraged to follow the principles of this policy if they do not have an internal FOI policy in place.

3. POLICY STATEMENT

3.1 The underlying principle of the Act is that government information should be available to the community with a pro-disclosure bias.

3.2 JACS is committed to upholding the public right to access government information and recognises the importance of promoting a government that is open, accountable, and effective. This policy sets out procedures to enable staff to support this objective by performing their duties in line with the Act.

4. ROLES AND RESPONSIBILITIES

Role	Responsibilities
JACS FOI Team	The JACS FOI team is responsible for: • receiving, processing, and coordinating access applications (FOI requests) • assessing documents for release in accordance with the requirements of the Act (including the application of redactions) • preparing recommended responses to FOI requests on behalf of Information Officers in accordance with the requirements of the Act • liaising with FOI applicants

Role	Responsibilities
	• undertaking consultation with other directorates and external stakeholders in relation to the release of information as required • preparing FOI decisions for publication on the JACS Disclosure Log • maintaining data and statistics for inclusion in the Ombudsman's Annual Report on the operation of the Act.
Business Units	Business units are responsible for: • providing the JACS FOI team with documents that are within the scope of an access application in a timely manner and keeping records of any searches undertaken • identifying and providing advice on any sensitivities contained within the documents when providing these to the JACS FOI team • providing advice to appropriate Directorate executives and responsible Ministers on sensitivities contained within the documents • proactively liaising with JACS Communications and Engagement to develop talking points and any other material to support Directorate executives and responsible Ministers.
Information Officer	The Information Officer is appointed by the Director-General under section 18 of the Act to make decisions in response to FOI requests.
JACS Communications and Engagement	JACS Communications and Engagement will: • work with business units to ensure that talking points address any sensitivities relating to material contained within an FOI request. • publish FOI responses on the JACS Disclosure Log within 3-10 working days of a FOI decision being made and provided to the applicant where applicable.

5. ACCESS APPLICATIONS AND TIMEFRAMES

5.1 WHAT IS AN ACCESS APPLICATION

5.1.1 An access application is a formal request for government information under the Act and can be made by any member of the public, media or a Member of the Legislative Assembly (MLA).

5.1.2 The access application template is available on the JACS website. An access application may also be received as written correspondence and must clearly state the information requested. An application for personal information must include proof of identity of the applicant or authorisation for another party to obtain information on their behalf.

5.2 RECEIVING ACCESS APPLICATIONS

5.2.1 Access applications are usually received by the JACS FOI team via the FOI inbox JACSFOI@act.gov.au. All access applications received through different means must be referred to the JACS FOI team for processing as quickly as possible as there are tight legislated timeframes that commence upon JACS receiving a new access application.

5.3 ACKNOWLEDGEMENT

5.3.1 The JACS FOI team will acknowledge receipt of the application and advise the applicant of the date by which a decision must be made. In line with the Act, this must be provided within **10** working days of receiving the application. If the application is received outside of business hours, the application will be taken as received the next business day.

5.4 TIMEFRAMES

5.4.1 JACS is required to make a decision on access within **30** working days of receipt of an access application. An extension of **15** working days applies to applications where third-party consultation must be undertaken with one or more external parties.

5.4.2 The JACS FOI team may seek to negotiate an extension of time with the agreement of the applicant, or in rare cases with the ACT Ombudsman, where certain criteria can be demonstrated as having been met.

5.5 DEEMED REFUSAL

5.5.1 Failure to meet the legislative or negotiated timeframes will result in a **deemed refusal** in accordance with Section 39 of the Act. The Directorate is required to give the Ombudsman written notice of a decision not made within time whilst still continuing to process the application. The relevant Minister must ensure a copy of the notice provided to the Ombudsman is presented to the Legislative Assembly within 6 sitting days of the access application (including any review or appeal) being decided, unless the request is for personal information only.

5.6 ASSESSING THE SCOPE

5.6.1 Upon receipt of a new FOI request, the JACS FOI team will review the scope of the request and identify which business units may hold material and whether information is likely to be held by another directorate. If there is uncertainty around the scope of the request, the JACS FOI team will contact the applicant to

seek clarity regarding the scope and make enquiries within JACS to ensure that the relevant business units are identified, noting that some requests will require partial or full transfer to another directorate.

5.7 PROCESS FLOW

Business Unit	Action/Timing - Processing
JACS FOI Team	• The JACS FOI team will email business units within **1-2 days** working days of receiving a valid access application outlining the scope of the request and what is needed from them.
Business Units	Business units will be required to provide all requested information to the JACS FOI team within **5 working days**. Business units must contact the JACS FOI team at the earliest possible time should there be any issues/concerns relating to the request, including: • any potential difficulty meeting the timeframe • the FOI scope is unclear (and may require the FOI team to clarify with the applicant) • FOI request involves a significant volume of material or resources to undertake searches • uncertainty regarding searches that need to be undertaken • advice relating to other business units within JACS or other directorates who may hold additional material within scope. The email requesting information from business units will require them to: • carefully assess and provide all material within scope. Duplicates and information that does not fall within scope must be excluded. • complete a checklist that identifies: o any sensitivities that the JACS FOI team and the Information Officer should consider in assessing the release of the information, and o provide advice on any relevant third parties (including other directorates) who need to be consulted regarding material identified as within scope during searches for information held by JACS. • are required to consider whether a ministerial briefing package and/or talking points are required to support the Minister once an FOI decision has been made. Briefing packages must particularly be considered for

Business Unit	Action/Timing - Processing
	all media, MLA and other FOIs that have significant stakeholder sensitivities. Where talking points are needed, business units are required to engage with JACS Communications and Engagement (JACSMedia@act.gov.au) in a timely manner to ensure that these will be ready for when the FOI decision is finalised and released to the applicant. Where there is a need to request information or data held by DDTS (i.e., from system backups), the JACS FOI team must have the request for ICT searches approved in writing by one of the following positions consistent with the Requesting ICT Usage Information Standard Operating Procedure: • Director-General (DG) • Chief Human Resources Officer (CHRO) • Senior Executive Responsible for Business Integrity Risk (SERBIR) • Agency Security Executive (ASE). Following approval, the JACS FOI team will forward the request to DDTS to be actioned. The search results will be provided to the relevant business unit to identify material within scope. However, if there is a sensitivity in the business unit doing this, such as a human resources matter, the identification of material within scope will be referred to People and Workplace Strategy. Business units should retain a record of all searches that have been conducted to identify material within scope of an FOI. This is important in the event the decision is later subject to a review and the Ombudsman requests evidence that full and adequate searches were conducted to locate relevant information.
JACS FOI Team	Once received, the JACS FOI team will review the material provided and contact business units with any questions/additional information sought. The timing of this will be dependent upon the FOI caseload that the JACS FOI team is managing and how large the volume of material to review is, as well as the complexity/sensitivities of the information. Information belonging to third parties will be identified and the relevant party will be invited to comment on its release. The JACS FOI team is responsible for negotiating any timeframe extensions with the applicant where this is required.

Business Unit	Action/Timing - Processing
	The FOI team will prepare a cohesive package that includes a schedule, documents (with recommendations for redaction in line with the Act), a draft decision notice and brief for the Information Officer to review. Once the FOI decision package has been prepared and has been cleared internally within the team, it will be provided to the Information Officer for a decision. The FOI team will aim to provide the Information Officer with as much time as possible to consider the recommendations for release. If required, a copy of the draft FOI decision package can be provided to the BU action officer to assist with preparation of a ministerial briefing package and/or talking points for the Minister.
Business Units	Where relevant, the ministerial briefing package and/or talking points to notify the Minister of any sensitivities must be finalised and progressed to the relevant Executive (this would generally be the Information Officer).
Information Officer	The Information Officer (FOI decision-maker) reviews the FOI decision package and recommendations. The Information Officer considers the information and advises the JACS FOI team of any changes they feel necessary to enable a decision to be made on the release of material within scope of the request.
JACS FOI Team	Once an Information Officer has cleared an FOI decision package, the JACS FOI team will apply any redactions and prepare the documentation for release to the applicant. The JACS FOI team will send a notification email to relevant stakeholders, including the JACS Executive and Minister's Offices after the FOI response has been released to the applicant (excluding requests for personal information). This will include: • a copy of the documents released • for matters with possible media implications, a ministerial briefing package including talking points where this has already been cleared for release and provided by the business unit.
Business Units	Where relevant, the ministerial briefing package or email with talking points must be provided to the Minister immediately following the FOI decision being released to the applicant. This will provide the Minister with supporting information around any sensitivities and talking points as necessary.

Business Unit	Action/Timing - Processing
JACS FOI Team	For all non-personal requests, the JACS FOI team will organise for the FOI response to be published on the JACS Disclosure Log within 3 to 10 working days following release to the applicant.

5.8 A high-level flowchart of the above process can be found at Appendix A.

6. JACS DISCLOSURE LOG

6.1 Under section 28 of the Act, JACS is required to keep a record of access application decisions on the disclosure log. The disclosure log includes details of the request, the Information Officer's decision, a copy of the information provided to the applicant and time spent dealing with the application. It does not include details of requests for personal information.

6.2 Where SOHO's do not have a disclosure log, they may forward a copy of relevant decisions to JACS FOI to be published on the JACS Disclosure Log. The SOHO must ensure all appropriate redactions are in place prior to submitting to JACS FOI.

6.3 The JACS FOI team works with Communications and Engagement to update the disclosure log, if applicable, following the completion of each FOI request.

6.4 JACS Disclosure Log - link.

7. NON-COMPLIANCE WITH THIS POLICY

7.1 Managers and staff are accountable to the Director-General for the fulfilment of their responsibilities under this policy, noting that compliance with the Act is a statutory requirement. Failure to comply with the terms of this policy may result in disciplinary action.

8. ENQUIRIES

Direct enquiries on this policy to the JACS Freedom of Information team at JACSFOI@act.gov.au.

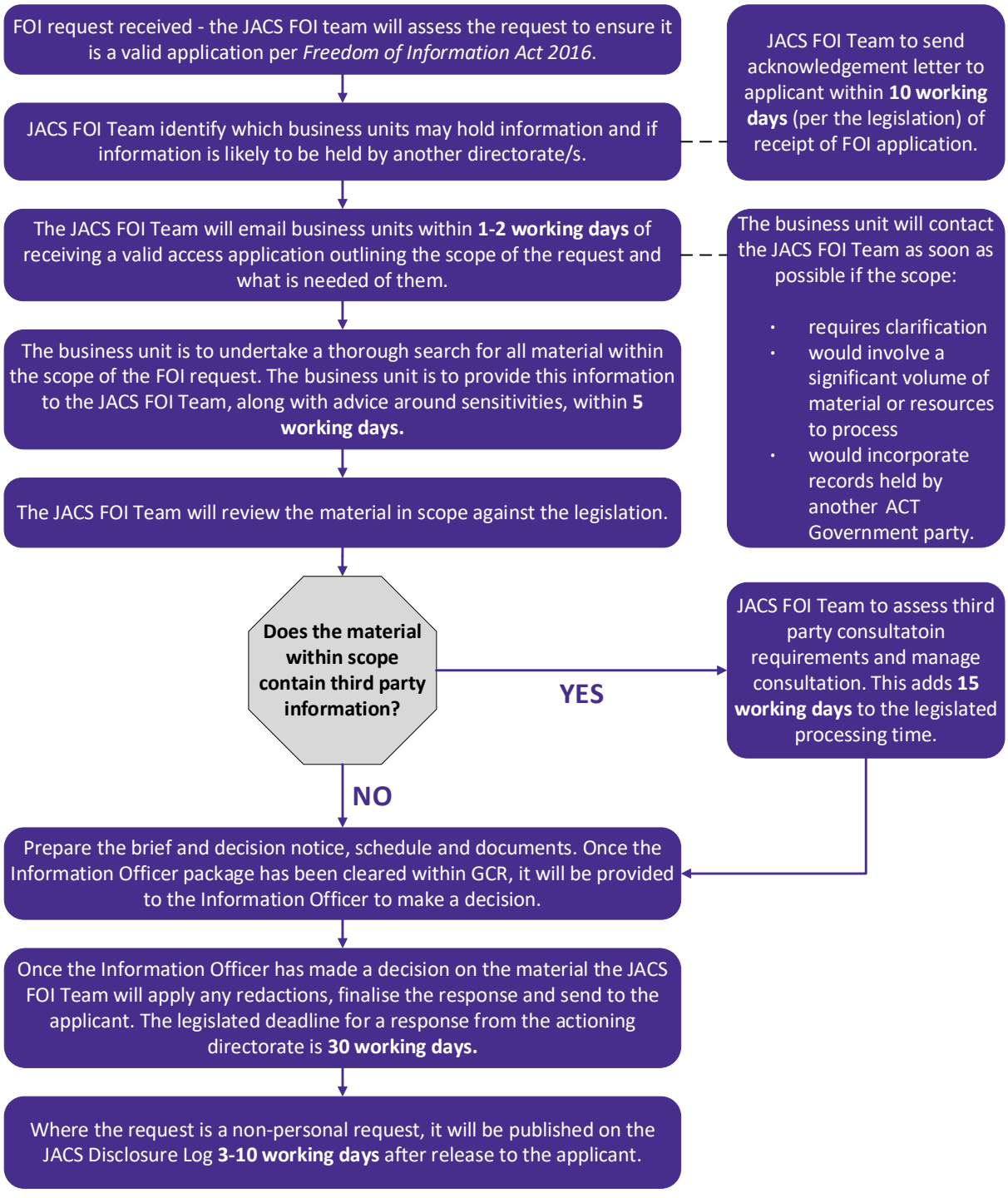
DETAILS

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AMENDMENT HISTORY

Version	Issue Date	Amendment Details	Author	Approved by
1.0	March 2022	Initial policy release.	JACS FOI Team	Director-General
1.1	November 2024	Administrative update.	JACS FOI Team	EBM, GCR

APPENDIX A – FREEDOM OF INFORMATION PROCESS FLOWCHART



The above flowchart reflects the standard process for general freedom of information requests. Large and/or complex FOIs may require additional time to prepare and finalise. The above table is indicative of the process.