



ROC Access to Information Policy

Publication History:

First edition: May 2017

**Relevant
Legislation or
materials:**

*Fair Work (Registered
Organisations) Act 2009*

*Fair Work (Registered
Organisations) Regulations 2009*

Privacy Act 1988

Freedom of Information Act 1982

Archives Act 1983

*ROC Access to Information
Policy*

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About this policy

The Registered Organisations Commission (**ROC**) was established under the December 2016 amendments to the [Fair Work \(Registered Organisations Act\) 2009](#) (the **RO Act**). The amendments also established the statutory office of Registered Organisations Commissioner (**the ROC Commissioner**). In accordance with the RO Act, the role of the ROC is to improve the governance of registered organisations – i.e. employer associations and unions – by promoting their efficient operation and high standards of accountability to their members.

This policy explains how the ROC will deal with a request for information that is held by it. Regulation 20 of the [Fair Work \(Registered Organisations\) Regulations 2009](#) (the **RO Regulations**), provides a basis on which many documents held by the ROC may be accessed. The ROC also has an obligation to comply with the [Freedom of Information Act 1982](#) (the **FOI Act**).

This policy is to be read in conjunction with the ROC [Privacy Policy](#) and the *Privacy Act 1988* (the [Privacy Act](#)).

Underlying Principles

1. We will release information when we can

We will endeavour to be as open as possible if you request access to information that we hold. There are certain provisions in the [FOI Act](#), the [Privacy Act](#) and other legislation that may restrict our ability to provide information upon request. Where we are unable to provide access to the requested information, an explanation of the decision will be provided and the rights of review will be explained.

We understand that it is time consuming for members of the public to make formal FOI requests. Therefore, we are committed to keeping our published records and Disclosure Log as up-to-date as possible and we will provide information without requiring a formal Freedom of Information (**FOI**) request where it is possible and lawful to do so.

2. We respect people's privacy and confidentiality

We will maintain people's privacy and confidentiality in line with our obligations under the [Privacy Act](#), the ROC's [Privacy Policy](#) and other legislation. Where a request for information would require disclosure of a third party's information we will (where practicable) consult with those parties prior to the information's release.

Prior to releasing information, unless we have a lawful obligation to do otherwise, we will delete personal information relating to others where it is apparent the information is not already known to the requesting party (such as addresses, phone numbers and email addresses).

If information has been provided to us under a mutual understanding that the information is confidential, we will not release the information without the permission of the person who supplied it. If permission to release the information is not given, the ROC will inform the party requesting access to the information that they may make an application under the [FOI Act](#). We will then consider whether the information can be released in accordance with the [FOI Act](#).

3. We will communicate and be responsive

We will adopt processes for providing access to information that are straightforward, timely and easy for people to understand. When a formal FOI request is required, we will work with you and will endeavour to provide the information you want in the most efficient and least costly way possible.

We will always provide applicants for the release of information with details of their review rights both within the ROC and externally, for example to the [Office of the Australian Information Commissioner \(OAIC\)](#) or [Commonwealth Ombudsman](#).

Accessing ROC information

We provide access to information in the following ways:

- **Proactive publication of information, for example** through our [website](#) and [media releases](#);
- **Release** of information under Regulation 20 of the [RO Regulations](#), which gives a person the right to inspect and obtain a copy of documents lodged with the ROC (with certain exceptions, described below); and
- **Release via FOI application**, where information is not released otherwise or is not publically available, and may be properly provided in response to an application made under the [FOI Act](#).

When considering requests for access to information the following legislation and policies may be relevant:

- RO Act;
- RO Regulations;
- FOI Act;
- Privacy Act;
- [Copyright Act 1968](#);
- ROC Privacy Policy;

- ROC Access to Information Policy;
- OAIC Guidelines;
- APS Code of Conduct; and
- Other legislation and guidelines (as applicable to each particular request).

Proactive publication of information

A formal FOI request is not required to access information that is publicly available. You should also check the information we have published on the [ROC website](#) including our FOI Disclosure Log to see if what you are seeking is already available.

Information that is frequently sought and can be found on our website includes:

- [lists of registered organisations](#);
- [annual returns](#) for each organisation;
- [financial reports](#) for each reporting unit;
- [election decisions](#);
- [officer and related party disclosure statements](#);
- lists of [registered auditors](#);
- [decisions](#) of the ROC Commissioner;
- [forms and templates](#);
- links to relevant [legislation](#);
- links to [other agencies](#);
- [media releases](#);
- matters that are the subject of [current court proceedings](#) (though not the detail of those matters); and
- matters that are the subject of [current inquiries or investigations](#) under sections 330 and 331 of the RO Act (though not the detail of those matters).

For information in relation to the rules of registered organisations, including registration and rule alterations, and for right of entry permit matters, please refer to the Fair Work Commission (www.fwc.gov.au).

Release under the RO Act and Regulations

Section 329G of the [RO Act](#) governs the disclosure of information obtained by the ROC Commissioner or ROC staff while exercising powers or performing functions under the RO Act. Such information may only be disclosed where necessary or appropriate to particular persons in the course of performing or exercising functions or powers (including under the *Fair Work Act 2009*); or where the disclosure is likely to assist in the administration or enforcement of a law of the Commonwealth, a State or a Territory.

The ROC Commissioner is unable to disclose information obtained during the course of an investigation unless it meets these criteria.

However, in addition to this, the RO Regulations make provision for public access to many of the documents otherwise lodged with the ROC. In particular, Regulation 20(1A) provides for a person to inspect certain documents at the Commissioner’s premises, after giving reasonable notice.

The general right of access to documents under Regulation 20 has no application to some types of documents. In these instances, access may still be able to be provided to members of that registered organisation in accordance with the provisions of those particular sections, i.e.:

- information sought by the ROC upon request to a registered organisation (s.236);
- statements of loans, grants and donations (s.237); and
- information sought by members (s.272).

However, access to a disclosure which comes within the whistle-blower provisions (Part 4A of Chapter 11 of the RO Act) will not be provided.

Where any of the above information contains personal details such as dates of birth, home addresses and personal account details, the ROC approach (consistent with the ROC [Privacy Policy](#)) is to redact such details before supplying the information to the requesting party.

How do I request information?

Who am I?	Where should I direct my request?
<ul style="list-style-type: none"> ▪ A person acting on behalf of a registered organisation 	<ul style="list-style-type: none"> ▪ The ROC Officer (if any) you have been dealing with in relation to your matter; or ▪ Send an email to regorgs@roc.gov.au ▪ Please note: you may be required to provide proof of identity or authority.
<ul style="list-style-type: none"> ▪ A person applying for registration as a registered auditor 	<ul style="list-style-type: none"> ▪ The ROC Officer (if any) you have been dealing with in relation to your matter; or ▪ Send an email to regorgs@roc.gov.au
<ul style="list-style-type: none"> ▪ A member of a registered organisation seeking access to documents under sections 236, 237 	<ul style="list-style-type: none"> ▪ Send an email to regorgs@roc.gov.au

or 272 of the RO Act	
<ul style="list-style-type: none"> ▪ A representative of a law enforcement body 	<ul style="list-style-type: none"> ▪ Send an email to regorgs@roc.gov.au detailing your request and the basis for it, or phone 1300 341 665 ▪ Requests will be closely assessed before disclosing personal information for law enforcement purposes.
<ul style="list-style-type: none"> ▪ A representative of a Government agency or of an organisation with a Memorandum of Understanding with the ROC 	<ul style="list-style-type: none"> ▪ Send an email to regorgs@roc.gov.au
<ul style="list-style-type: none"> ▪ A person making an FOI request 	<ul style="list-style-type: none"> ▪ Send an email to regorgs@roc.gov.au ▪ Refer to 'How to make an FOI request' (below) for further details
<ul style="list-style-type: none"> ▪ A member of the public 	<ul style="list-style-type: none"> ▪ Send an email to regorgs@roc.gov.au

FOI requests: your rights

If the information you want cannot be released in any of the other ways outlined above, you can make an FOI application to seek those documents.

The [FOI Act](#) gives a person the right to:

- access copies of documents of the ROC, other than documents that are determined to be exempt from disclosure under the FOI Act;
- ask for information we hold about you to be changed or annotated if it is incomplete, out of date, incorrect or misleading; and
- seek a review of our decision not to give you access to a document or not to amend your personal record.

Under the FOI Act, you can ask to see any document that we hold that was either created or received in the ROC. We can refuse access to documents or parts of documents that are exempt. Exempt documents may include:

- those relating to national security;
- documents containing material obtained in confidence and Cabinet documents;
- documents that are subject to legal professional privilege;
- documents that would affect the administration of a law;
- documents relating to deliberative processes; or
- other matters set out in the FOI Act.

Documents may also be conditionally exempt, such as:

- where disclosing the document would involve the unreasonable disclosure of an individual's personal information;
- where disclosure could reasonably be expected to unreasonably affect a third party's business affairs; or
- where release of the document would have a substantial adverse effect on the proper and efficient conduct of the ROC's operations.

Where a document is conditionally exempt, we may refuse access to all or part of the document if access would, on balance, be contrary to the public interest.

How to make an FOI request

An FOI request for access to documents must:

- be in writing;
- state that the request is an application for the purposes of the [FOI Act](#);
- provide information about the document(s) you seek to access (which will help us locate them); and
- provide contact details so we can communicate with you (e.g. email, postal, address, and telephone).

You can send your request by email to regorgs@roc.gov.au or by post to GPO Box 2983, Melbourne VIC 3001.

If you ask a third party to make an FOI request on your behalf, you need to provide a specific, written authority for us to send copies of documents to you, care of that person, or to allow that person to inspect copies of documents containing information about you.

Collection of your personal information – FOI Act and Privacy Act

The ROC collects information, including personal information that you provide about yourself and others, when you:

- make an enquiry;
- apply for access to information under the FOI Act or Privacy Act; or
- make a submission in relation to an FOI request.

The ROC collects this information for the purpose of dealing with your enquiry or processing your request or submission under the FOI Act or the Privacy Act.

If you apply for access to information under the FOI Act or Privacy Act, the ROC may collect personal information about you from third parties, for example, if the party makes a submission in response to a consultation process regarding your FOI request.

Generally, you are not required to provide your name to the ROC when making an enquiry or application under the FOI Act or Privacy Act. For example, you may choose to remain anonymous or use a pseudonym. However, in some circumstances your personal information will be required to properly deal with your enquiry or application. The consequences for you if the ROC did not collect your personal information for the above purposes may include that:

- the ROC would not be able to deal with your enquiry or application under the FOI Act or Privacy Act because it would lack the necessary information; or
- the ROC would not be able to take your submission into consideration in the decision to release documents under the FOI Act.

If you have not provided any contact details, the ROC:

- would not be able to contact you to respond to your enquiry; and
- would not be able to treat your application as a valid FOI request because the FOI Act requires that the request give details of how notices under the FOI Act may be sent to the applicant (for example, by providing an email address).

Disclosure of your personal information

Where practicable, the ROC will not disclose personal information you provide in your enquiry or FOI request to external entities. The ROC will also take steps to limit the amount of personal information about you that is disclosed as part of any consultation process regarding your FOI request, in accordance with the ROC [Privacy Policy](#).

If you provide a submission in response to a consultation process under the FOI Act, the ROC may disclose personal information you provide in your submission as part of the access decision required to be provided to the FOI applicant.

The ROC may disclose personal information about you when it is required or authorised to do so pursuant to:

- a court or tribunal order for production of documents; or
- an Australian law (for example, disclosure under the FOI Act).

How will requests for information be handled?

In deciding whether to grant access to information, the ROC will have regard to the [FOI Act](#), the [Privacy Act](#) and section 20 of the [RO Regulations](#), as well as the individual circumstances of each request.

Certain information or documents will not usually be released by the ROC. The following table provides an example of information or documents that may or may not be suitable for release.

Information which may be suitable for release	Information not suitable for release
<ul style="list-style-type: none"> ■ information and documents provided to the ROC by the person or organisation requesting the release; ■ correspondence to and from the person or organisation requesting the release; ■ copies of documents containing the personal information of the requesting party; ■ file notes of telephone conversations or interviews between the requesting party and the ROC (where a record of conversation was made) other than notes taken during mediation; ■ copies of any tribunal or court decisions /authority relied on in making a decision; ■ Findings of contravention made following an inquiry or investigation under ss.330 and 331 of the RO Act; ■ Information routinely published by the ROC, including: <ul style="list-style-type: none"> ○ Annual Returns lodged by registered organisations; ○ Financial Reports lodged by reporting units of registered organisations; ○ Officer and related party disclosure statements ○ Lists of registered auditors; ○ Decisions of the ROC Commissioner. ○ The parties whom the ROC Commissioner is currently inquiring into / investigating pursuant to sections 330 and 331 of the RO Act. 	<ul style="list-style-type: none"> ■ personal information relating to others¹ ■ notes taken and other communications that took place during or connected to a mediation (as this is a confidential process); ■ legal advice provided by the ROC's lawyers or by external legal providers or other material subject to legal professional privilege; ■ information or documents relating to a matter involving the ROC that is currently before the courts; ■ documents containing deliberative content, such as recommendations currently under consideration, or internal case conference or briefing notes where a matter is still open or ongoing; ■ documents containing information which is likely to be of commercial value to a business.

We will acknowledge within 14 days that we have received your FOI request.

We will send you a decision in writing within 30 days from the day after we receive the FOI request.

¹ Decisions about information release in these cases will be made in accordance with the *Privacy Act* and the ROC Privacy Policy.

The timeframe for making a decision on an FOI request can be extended in certain circumstances.

For example, it may take longer than 30 days if we have to consult a third party before releasing information or documents that have personal information about them, business information or trade secrets. We will let you know if timeframes are extended.

As soon as practicable, we will also give you an estimate of any charges that apply to your request. (Details of fees and charges, and the circumstances in which they may be requested, are outlined below).

We may decide that there is a practical reason to refuse an FOI request if:

- the work involved in processing a request would substantially and unreasonably divert the ROC's resources from its other operations; or
- the request does not provide enough information about the requested documents as is reasonably necessary to enable us to identify them.

This is called a **practical refusal reason**. If we decide that a practical refusal reason exists, you will be notified in writing and we will conduct a 14-day 'request consultation process' with you. The request consultation process will give you an opportunity to consult with us to revise your request so that a practical refusal reason no longer exists. This period is to be disregarded in working out the period in which we must process your request. This is further discussed below.

If a document contains information about a third party, we will need to consult with them and may need to extend the time to give you our decision by another 30 days. We may also seek your agreement to extend the time by up to 30 days if your request is complex or voluminous. In some circumstances, we may also apply to the Information Commissioner for an extension of time to process your request.

Under the FOI Act, the ROC may make a range of decisions in response to an FOI request, including to:

- grant access to some or all of the requested documents, either in full or in part;
- refuse access to requested documents, including when:
 - the documents are exempt under the FOI Act;
 - the documents are conditionally exempt under the FOI Act, where public interest factors against disclosure outweigh the public interest factors favouring disclosure;
 - the documents do not exist, cannot be found or were not received from a contractor;
 - a practical refusal reason exists following a request consultation process;
- refuse to confirm or deny that a document which would be exempt exists;
- defer access to a requested document in limited circumstances; or
- provide access to personal information of the FOI applicant through a qualified person.

We can lawfully refuse to release some information or documents, or parts of documents, if the FOI Act allows it.

This includes information or documents that:

- affect the enforcement of a law;
- are given to us in confidence; or
- are subject to legal professional privilege.

Information or documents that have business and personal information in them may not be released if it is contrary to the public interest.

The ROC reserves the right to refuse access to requested information, unless it is legally obliged to release it.

If we decide to refuse all or part of your FOI request or defer access to documents, we will provide you with a statement of reasons explaining the decision.

More information about the possible outcomes of an FOI request is available on the Office of the Australian Information Commissioner (OAIC) website www.oaic.gov.au.

If you disagree with our decision

When we have made a decision about your FOI request, we will send you a letter explaining our decision and your review rights.

You can ask for the following decisions to be reviewed:

- if we refuse to give you access to all or part of a document or documents or if we defer giving you access;
- if we impose a charge to process your FOI request; or
- if we refuse to change or annotate information about you that you claim is incomplete, incorrect, out of date or misleading.

A third party who disagrees with our decision to give you documents that contain information about them can also ask for our decision to be reviewed.

Internal review

You can request in writing that we reconsider our decision through an internal review. An internal review will be conducted by another officer within the ROC. We will normally advise you of the internal review decision within 30 days of receiving your request. In limited circumstances, we may apply to the Information Commissioner for additional time to advise you of the internal review decision.

If you wish to lodge a request for internal review with the ROC, send your written request by email to regorgs@roc.gov.au or by post to GPO Box 2983, Melbourne VIC 3001.

Information Commissioner review

You can ask the Information Commissioner to review our original decision or our internal review decision within 60 days of the date of the relevant decision (or 30 days after you are notified of the decision, if you are an affected third party).

The Information Commissioner can affirm or vary the decision or substitute a new decision.

The Information Commissioner may decide not to conduct a review in certain circumstances. More information is available at the [OAIC website](#).

Fees and charges

There is no application fee for an FOI request where it relates only to personal information about you.

However, the [FOI Act](#) and the [Freedom of Information \(Charges\) Regulations 1982](#) allow the ROC to charge for providing access to information or documents that do not contain the personal information of the FOI applicant. We will make information available at the lowest reasonable cost and will reduce the cost of public access by publishing information online, especially information that is routinely sought by the public.

The most common charges are:

Activity	Item
Search and retrieval: time we spend searching for or retrieving a document	\$15 per hour
Decision making: time we spend in deciding to grant or refuse a request, including examining documents, consulting with other parties, and making deletions	First 5 hours: Nil Subsequent hours: \$20 per hour
Transcript: preparing a transcript from a sound recording, shorthand or similar medium	\$4.40 per page of transcript
Photocopying	\$0.30 per page
Inspection: time we spend supervising your inspection of documents or hearing or viewing of an audio or visual recording at our premises	\$6.25 per half hour (or part thereof)
Delivery: sending or delivering a copy of a document at your request	Cost of postage or delivery

If we decide to impose a charge, we will give you a written estimate and the basis of our calculation. Where the estimated charge is between \$20 and \$100, we may ask you to pay a deposit of \$20, or where the estimated charge exceeds \$100, we may ask you to pay a 25% deposit before we process your request.

You can ask for the charge to be waived or reduced for any reason, including financial hardship or on the grounds of public interest. If you do so, you should explain your reasons and you may need to provide some evidence. We will then decide whether to grant the waiver or reduce the charge.

FOI Disclosure Log

In compliance with the [FOI Act](#), we will publish certain information or documents released in response to FOI requests in our Disclosure Log where appropriate.

The FOI Disclosure Log contains information released by the ROC in response to requests under the FOI Act.

Since 1 May 2011, agencies with obligations under the FOI Act are required to publish a register of information that has been released in response to an FOI request.

The Disclosure Log requirement does not apply to:

- personal information about any person if publication of that information would be unreasonable;
- information about the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable;
- other information covered by a determination made by the Australian Information Commissioner if publication of that information would be unreasonable; or
- any information where it is not reasonably practicable to publish the information because of the extent of modifications that would need to be made to delete the information listed above.

Copies of the documents released under the FOI Act following the commencement of the ROC will be made available online.

The ROC will publish information in the Disclosure Log within 10 working days of an FOI applicant being granted access to a document.

There may be documents in the Disclosure Log that are not available in HTML format. If you are unable to read the format provided please contact the FOI/Privacy Contact Officer by email or by post using the contact details below. We will try to meet all reasonable requests for alternative formats in a timely manner and at the lowest reasonable cost to you.

If you have any queries regarding the Disclosure Log, please contact the ROC's FOI/Privacy Contact Officer by email to regorgs@roc.gov.au or by post to: GPO Box 2983, Melbourne VIC 3001.

Complaints

If you are unhappy with the way we have handled your request, you can complain to the Information Commissioner who may investigate our actions. More information is available on the [OAIC website](#).

The Commonwealth Ombudsman can also investigate complaints about our actions. However, the Commonwealth Ombudsman and the Information Commissioner will consult to avoid the same matter being investigated twice.

Contact us

If you wish to request information from the ROC please use the details below:

- **For parties to a current ROC matter seeking information about that matter:**

If you are seeking to access information about matter in which you are or were a party or a representative to a party, please contact either the ROC officer dealing with your matter or email regorgs@roc.gov.au .Please note you may be required to provide proof of identity or authority to act.

- **For information on availability of documents**

If you are not sure whether the information you are seeking is available or have questions about access to information, you may send your enquiry by email to regorgs@roc.gov.au or contact a Freedom of Information/Privacy Officer by calling 1300 341 665

- **For FOI requests**

If you are seeking information from the ROC which is not accessible by other means, , you will need to request this information via written FOI request to regorgs@roc.gov.au or by post to GPO Box 2983, Melbourne VIC 3001.

(Details on how to make an FOI request are outlined above).

- **For general enquiries**

If you have a general enquiry or require information about ROC procedures, contact the ROC on 1300 341 665 or email regorgs@roc.gov.au.