

Policy	Freedom of Information (FOI)	
Introduction	1.1	The Freedom of Information Act 1982 (Vic) (FOI Act) provides every person with a legally enforceable right to access documents in the possession of a public agency, subject to certain exceptions.
	1.2	The Victorian Legal Services Board and Commissioner (“Board and Commissioner”) is a public agency subject to the FOI Act. This document details how the Board and Commissioner approach and apply the FOI Act.
Policy	2.1	The Board and Commissioner are committed to open and accessible government.
	2.2	However, because of the nature of their regulating the legal profession, many documents held by the Board and Commissioner are unable to be released to the public due to the strict confidentiality provisions in Legal Profession Uniform Law Application Act 2014 (Vic) (“the Principal Act”), Schedule 1 to which is the Legal Profession Uniform Law (Vic) (“the Uniform Law”). (See information regarding legislative framework below).
	2.3	Every effort will be made to assist persons to make a valid request under the FOI Act.
Guidelines - Applicants	3.1	<p>Requests</p> <p>You are entitled to apply for access to the following documents held by the Board and Commissioner:</p> <ul style="list-style-type: none"> documents relating to your own personal affairs, regardless of the age of the documents; and documents of a non-personal nature which are not older than 5 July 1978 and which are not exempt (see information regarding exemptions below). <p>You may also request the amendment or removal of incorrect or misleading information held about you.</p>
	3.2	<p>How to make a request?</p> <p>A request for access to documents made pursuant to the FOI Act must:</p> <ul style="list-style-type: none"> be in writing; and provide such information as is reasonably necessary to enable identification of the relevant documents; and <p>be accompanied by the prescribed application fee (see www.foi.vic.gov.au for the current application fee). The application fee may be waived if you can provide evidence of financial hardship.</p>
	3.3	<p>Who to address a request to?</p> <p>If your request is for access to documents relevant to complaint handling or human resources, please send your application to the Freedom of Information Officer, Victorian Legal Services Commissioner, Level 5, 555 Bourke Street, Melbourne VIC 3000.</p> <p>For access to any other document held by this office, please send your application to the Freedom of Information Officer, Victorian Legal Services Board, Level 5, 555 Bourke Street, Melbourne VIC 3000.</p>

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3.4 **What happens after a request is made?**

You will be notified as to a decision on a request within 45 days of the Board or Commissioner receiving it.

3.5 **Appeals**

a) Review by the FOI Commissioner

From 1 December 2012, you may seek a review by the FOI Commissioner of a decision made on or after 1 December 2012 by an FOI Officer. An application for a review of a decision by the FOI Commissioner must be made within 28 days after the day on which notice in writing of the decision is given to you.

The FOI Commissioner will have 30 days to conduct its review, unless you agree to an extended period in writing. The FOI Commissioner cannot review a principal officer's decision, namely the Victorian Legal Services Commissioner or the Chairperson of the Victorian Legal Services Board. The Victorian Civil and Administrative Tribunal (VCAT) has the power to review these types of decisions (see next).

b) Review by the Victorian Civil and Administrative Tribunal

You may apply to the VCAT for a review of a decision by the principal officer or by the FOI Commissioner refusing to grant access to a document. Applications to VCAT must be made within 60 days from the day on which notice in writing of a decision on the request is given to you.

3.6 **Fees and charges**

You may be charged for access to documents (in addition to the application fee) in accordance with [s.22 of the FOI Act](#). For example, you may be asked to pay for photocopies of documents. See the following for details <http://www.foi.vic.gov.au>

Guidelines – General

4.1 **Information held by the Board and Commissioner**

The Board and Commissioner regulate the legal profession in Victoria. Documents in the possession of these agencies fall into the following categories (please note this list is not exhaustive):

Board

- Fidelity Fund administration
- Legal profession rules management
- Trust account administration
- External intervention (receivership, management and supervision)
- Court based litigation

Commissioner

- Complaints against lawyers
- Dispute resolution
- Disciplinary investigations
- Proceedings before VCAT
- Human resources

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4.2 **Annual Report**

You may be charged for access to documents (in addition to the application fee) in accordance with s 22 of the FOI Act. For example, you may be asked to pay for photocopies of documents. See the following for details <http://www.foi.vic.gov.au>

4.3 **Proactive Release**

The Board and Commissioner are committed to being open and accessible in their work. Once a year, a review of all requests received and handled under the FOI Act during the year will be undertaken to assess what information has been released and what information could be made generally available to the public.

Decision Makers

5.1 **Who makes decisions?**

There are a number of Board and Commissioner FOI Officers. These persons can make decisions on request at first instance and may be subject to review by the FOI Commissioner.

The Victorian Legal Services Commissioner can also make decisions on requests which cannot be reviewed by the FOI Commissioner.

Legislative Framework

6.1 **[Freedom of Information Act 1982 \(Vic\)](#)**

Exempt Documents (Part IV)

- [Section 38](#) exempts documents to which secrecy provisions of enactments apply. It provides that a document is an exempt document if there is in force an enactment applying specifically to information of a kind contained in the document and prohibiting persons referred to in the enactment from disclosing information of that kind, whether the prohibition is absolute or is subject to exceptions or qualifications.
- Other relevant exemptions include:
 - [s 30 \(internal working documents\)](#);
 - [s 31 \(law enforcement documents\)](#);
 - [s 32 \(documents affecting legal proceedings\)](#);
 - [s 33 \(documents affecting personal privacy\)](#).

6.2 **Principal Act and Uniform Law**

General Provisions (Part 9.9)

Subsection 462(1) is a confidentiality provision. Subject to certain exceptions a relevant person must not disclose to any person, whether directly or indirectly, any information obtained in the execution or administration of the Principal Act or the Uniform Rules. A penalty of 50 penalty units applies.

6.3 **[Privacy and Data Protection Act 2014 \(Vic\)](#)**

[Subsection 120\(2\)](#) is a secrecy provision specific to personal information. Subject to certain exceptions, it provides that a person to whom this section applies must not, either directly or indirectly, make a record of, disclose or communicate to any person any [information](#) about an individual or organisation obtained or received in the course of performing functions or duties or exercising powers under this Act or a [former Act](#). A penalty of 60 penalty units applies.