



Australian Government
**Department of Employment
and Workplace Relations**

Ms Raewyn Harlock

Office of the Australian Information Commissioner

By email: Guidanceandpublications@oaic.gov.au

Dear Ms Harlock

Consultation on Part 14 of the FOI Guidelines – Disclosure Log

The Department of Employment and Workplace Relations (the department) welcomes the opportunity to comment on the updated Part 14 (version 1.8) of the FOI Guidelines (Disclosure Log) (the updated Guidelines).

Please find the department's comments below.

1. Retaining and archiving of disclosure log information - paragraphs [14.13] and [14.91] to [14.94]

The department suggests that the updated Guidelines could provide greater specificity on how long documents must remain available on a disclosure log and what type of documents should be indefinitely retained because of an enduring public interest. More detailed guidance would assist agencies, improve transparency for the public and promote a consistent approach to archiving practices across the Commonwealth.

2. Deciding not to publish documents on the disclosure log - paragraphs [14.19] to [14.23]

The department notes that paragraph 14.34 of the updated Guidelines appears to be inconsistent with paragraph 14.20. The OAIC may wish to clarify in the headings and contents of the updated Guidelines whether an agency makes a decision to publish information on a disclosure log (as suggested in 14.34 and Annexure B – Disclosure log checklist) or a decision is made that an exception to the publication requirement exists and it would be unreasonable to publish the documents (as suggested in 14.20).

3. When access is granted to some (but not all) of the requested documents - paragraphs [14.24] to [14.25]

The department welcomes the additional clarification in paragraph 14.25 of the updated Guidelines and notes that the examples concern circumstances in which further access has been granted following internal review, Information Commissioner review or review by the Administrative Review Tribunal (ART).

The department suggests the updated Guidelines could be further improved by addressing whether the same approach above applies when an agency makes a revised decision under section 55G that has the effect of varying or substituting an access refusal decision.

The department further suggests that the updated Guidelines could provide guidance to agencies on how they should manage disclosure log entries where some of the documents or information are the subject of an access grant decision following a consultation under section 26A, 27 or 27A of the FOI Act. The updated Guidelines could also address the timing of the disclosure log publication and provide illustrative examples of when publication should occur in these circumstances.

The department additionally suggests that the updated Guidelines could also address whether it is desirable to publish additional information about:

- the FOI decision number (if used by the agency)
- whether the disclosure log entry publication follows from an access decision, an internal review decision, 55G revised decision, Information Commissioner review decision or ART review decision; and
- whether the disclosure log entry is linked to a previous disclosure log entry.

4. Disclosure log publications where exempt or conditionally exempt material was inadvertently released by an agency

The department suggests that the updated Guidelines could provide guidance on appropriate steps to be taken where, after an FOI access decision has been made and access to documents or information has been provided, the agency discovers that exempt or conditionally exempt material was inadvertently disclosed. In some cases, publication of that material on the disclosure log could result in harm. This issue is of particular concern where the information cannot be excepted from publication under section 11C(1).

5. Disclosure log reporting

The department suggests that the updated Guidelines could also provide guidance to agencies on what counts as a disclosure log publication (for example, deletions, modifications, replacement and new entries) and how this is dealt with for reporting purposes. The department also suggests that the updated Guidelines could address whether agencies would need to amend previous submissions where there is a deletion, modification or replacement of a disclosure log publication reported in a previous submission, or if this should be captured in submission for the quarter in which deletion, modification or replacement was made.

6. Other comments

In reviewing the updated Guidelines, the department noted that there is a typographical error in paragraph 14.63 (the word should be 'facilitate'). The department also suggest that the second bullet point in paragraph 14.29 should reference the other types of information that can be excepted.

Further assistance

If you have any questions, please email foi@dewr.gov.au.

Yours sincerely

Maxwell

Maxwell

Department of Employment and Workplace Relations

4 September 2026