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Guidance and Publications  
Regulatory Intelligence and Strategy  
Office of the Australian Information Commissioner

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Dear OAIC,

### **Submission on Draft Revisions to Part 14 of the FOI Guidelines**

We thank the OAIC for the opportunity to provide comments on the proposed updates to Part 14 of the FOI Guidelines. We welcome efforts to clarify and enhance the guidance available to agencies and applicants under the *Freedom of Information Act 1982* (FOI Act) and offer the following observations and submissions.

- 1. The introduction to Part 14 ([14.1]–[14.5]) includes key messages for agencies and ministers.*

The Tribunal supports the revised introduction, which provides a clearer overview of the purpose and operation of the disclosure log requirements.

- 2. A Disclosure Log checklist has been added at Annexure B*

The Tribunal supports the checklist as a useful compliance aid but considers that recommending it for every FOI request would be disproportionate and create an administrative burden for agencies such as the Tribunal that deal primarily in requests for an individual's own information. A significant proportion of the Tribunal's requests concern applicants seeking their own case-related records, which plainly contain personal information and are therefore not required to be published on the disclosure log. Completing a separate checklist in these routine cases would add little value and duplicate information already recorded in the Tribunal's FOI register and case-management system. The Guidelines should instead support a proportionate, risk-based approach, with the checklist used for non-personal, mixed or otherwise complex requests where the application of a disclosure log exception requires closer consideration.

- 3. [14.11] recommends, as better practice, that agencies and ministers include the reason why released documents cannot be published on the disclosure log (where access is provided on request).*

The Tribunal supports the general principle that documents subject to the disclosure log requirements should, where practicable, be available for direct download from the disclosure log, noting there may be circumstances in which providing access on request remains appropriate. The Tribunal considers that agencies should retain sufficient flexibility to determine, having regard to the circumstances of the particular documents and the objects of the FOI Act, when direct online publication is not appropriate or practicable. In those cases,

the disclosure log may explain why the documents are available only on request and how they may be obtained.

4. *[14.13] has been updated to ensure that agency disclosure log practices are accurately reflected in the introduction to the agency's disclosure log.*

The Tribunal considers the proposed clarification appropriate and has no further comments.

5. *[14.22] in the current version of Part 14 has been deleted (it refers to a Disclosure Log determination that has expired). There is currently no Information Commissioner determination in effect.*

The Tribunal has no specific comments on this proposed amendment.

6. *[14.24] emphasises that the disclosure log requirement only applies to information to which the FOI applicant has been given access. As a result, where a large amount of information has been deleted from a document before release, the blank pages do not need to be published.*

The Tribunal supports this clarification. Although it may require a separate publication copy with blank pages omitted, the additional administrative impact is expected to be minor.

7. *[14.25] has been updated to clarify that the disclosure log requirement applies when greater access is given following review.*
8. *[14.35] clarifies that agencies should include a statement if the agency's disclosure log includes documents released in response to a request to the minister, as well as providing a way for the public to search for the minister's disclosure log entries.*
9. *[14.60] recommends agencies include the new 'Access to Information' icon on their website.*
10. *[14.73] removes the reference to the Australian Signals Directorate's endorsement of Adobe Acrobat DC Pro (2017) and suggests agencies undertake their own assessment of the effectiveness of redaction software to permanently remove redacted information.*
11. *[14.82] suggests that agencies without a case management system to record disclosure log decision making maintain an internal register to record this information*
12. *[14.84] emphasises the importance of agencies correctly reporting their disclosure log statistics to the OAIC each quarter.*

The Tribunal supports the above proposed amendments and has no further comments.

Please contact me should you require additional input or clarity to any of the points above.

Yours sincerely,



Assistant Director FOI & Privacy