

People have the right to request access our documents by making an FOI request:

- either verbally, via text message or submitting a form on our website.
- via a handwritten letter.
- by emailing or posting us a letter.
- by calling 13 13 94.



Correct

That's right.

FOI requests can be made by emailing or posting us a letter.

TAKE AGAIN



Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Examples of documents we can release relating to an FOI request include:

(Select all that apply)

<input checked="" type="checkbox"/>	Documents containing the requestors own personal information.
<input checked="" type="checkbox"/>	Notes we've taken during our conversations with the requestor.
<input type="checkbox"/>	Documents that affect the enforcement of law.
<input checked="" type="checkbox"/>	Tribunal, court decisions or authorities we've relied on when making a decision.
<input type="checkbox"/>	Documents containing information which is likely to be of commercial value to a business.
<input checked="" type="checkbox"/>	Call information from our Infoline relating to the requestor.



Correct

That's right.

Examples of documents we can release relating to an FOI request include:

- documents containing the requestors own personal information
- notes we've taken during our conversations with the requestor
- tribunal, court decisions or authorities we've relied on when making a decision
- call information from our Infoline relating to the requestor.

TAKE AGAIN



The timeframe we are required to provide an FOI decision that isn't formally extended, is within:

14 days

30 days

60 days



Correct

That's right.

We are required to provide an FOI decision (that isn't formally extended) within 30 days.

TAKE AGAIN



Documents released by the Fair Work Ombudsman
Under the Freedom of Information

In what ways can you help the OFWO comply with our FOI obligations?

(select all that apply)

Prepare documents and write emails with professional language.

If requested, provide PDF versions of documents from OFWO systems that may be relevant to the FOI request.

If requested, provide PNG versions of documents from any system that may be relevant to the FOI request.

Keep your documents and records in appropriate OFWO systems.

Ignore search requests sent by the Information Governance team.

Respond to FOI search requests in a timely manner.

Raise any concerns with the release of documents at the end of the FOI process.



Correct

That's right.

You can help the OFWO comply with our FOI obligations in these ways:

- Prepare documents and write emails with professional language.
- If requested, provide PDF versions of documents from OFWO systems that may be relevant to the FOI request.
- Keep your documents and records in appropriate OFWO systems.
- Respond to FOI search requests in a timely manner.

TAKE AGAIN



What is the most suitable way you can help a person get more information about making an FOI request and the FOI process?

Access our Intranet and search for 'Information access'.

Call 13 13 94 and ask to make an FOI request.

Ask them to go to fairwork.gov.au and search 'FOI' to find our Accessing our information page.



Correct

That's right.

The most suitable way you can help a person get more information about making an FOI request and the FOI process is to ask them to go to fairwork.gov.au and search 'FOI' to find our Accessing our information page.

TAKE AGAIN



Documents released by the Fair Work Ombudsman
Under the Freedom of Information Act

Privacy and Freedom of Information (New Starter)



s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

☰ Freedom of information (FOI)

☰ FOI knowledge check

☰ Conclusion

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Lesson 1 of 10

Introduction



The journey towards reconciliation, Jordan Lovegrove

The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community.

We pay our respect to them and their cultures, and Elders, past, present and future.

The purpose of this module is to provide you with an overview of the Office of the Fair Work Ombudsman (OFWO) **privacy and freedom of information protocols**.



“Learning outcomes

After completing this module, you will be able to:

- identify information defined as personal
- explain how privacy affects your work
- understand where you fit in the FOI process
- explain your role in our response to FOI requests.



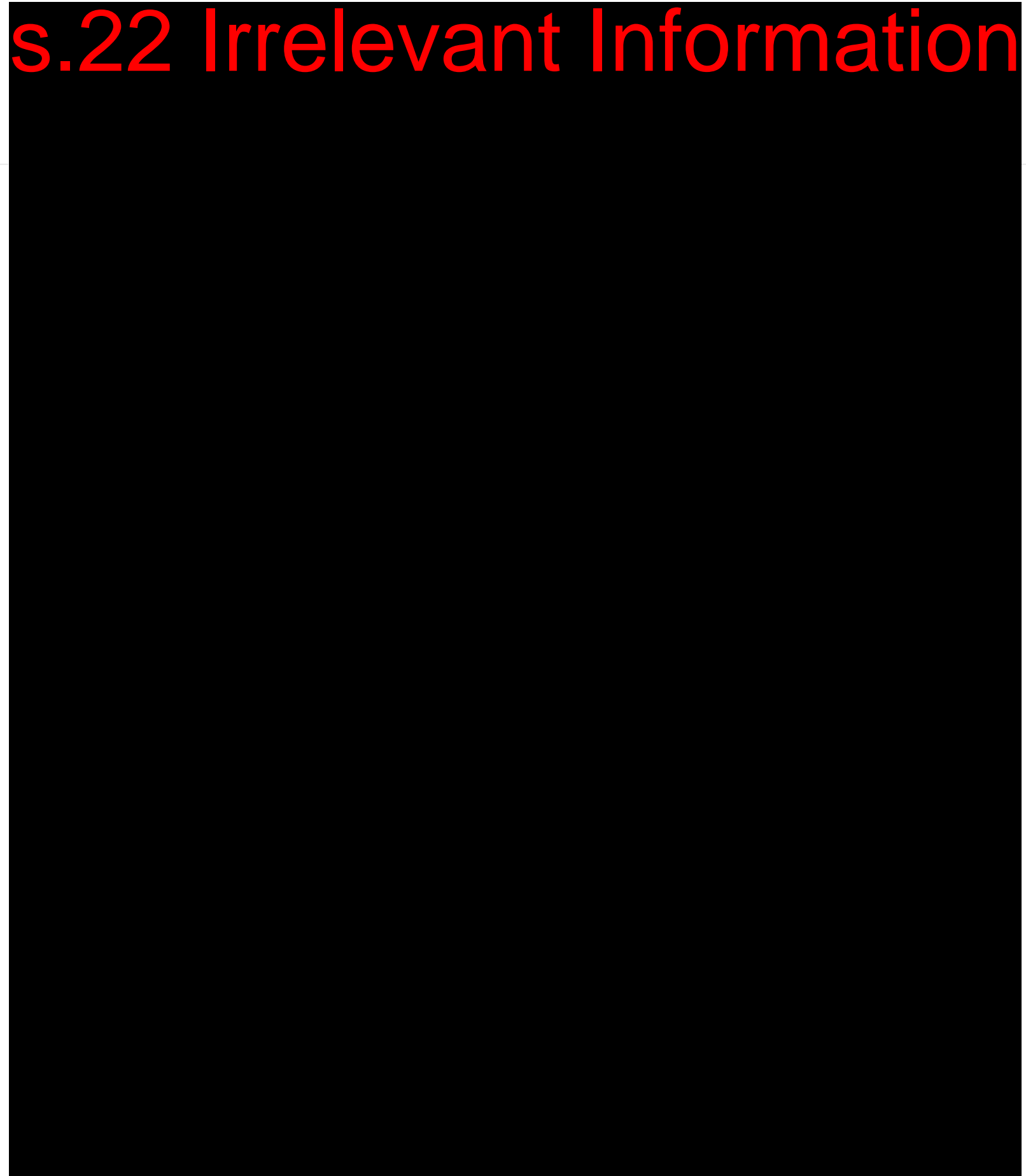
“Duration

You should allow **25 minutes** to complete this module.”

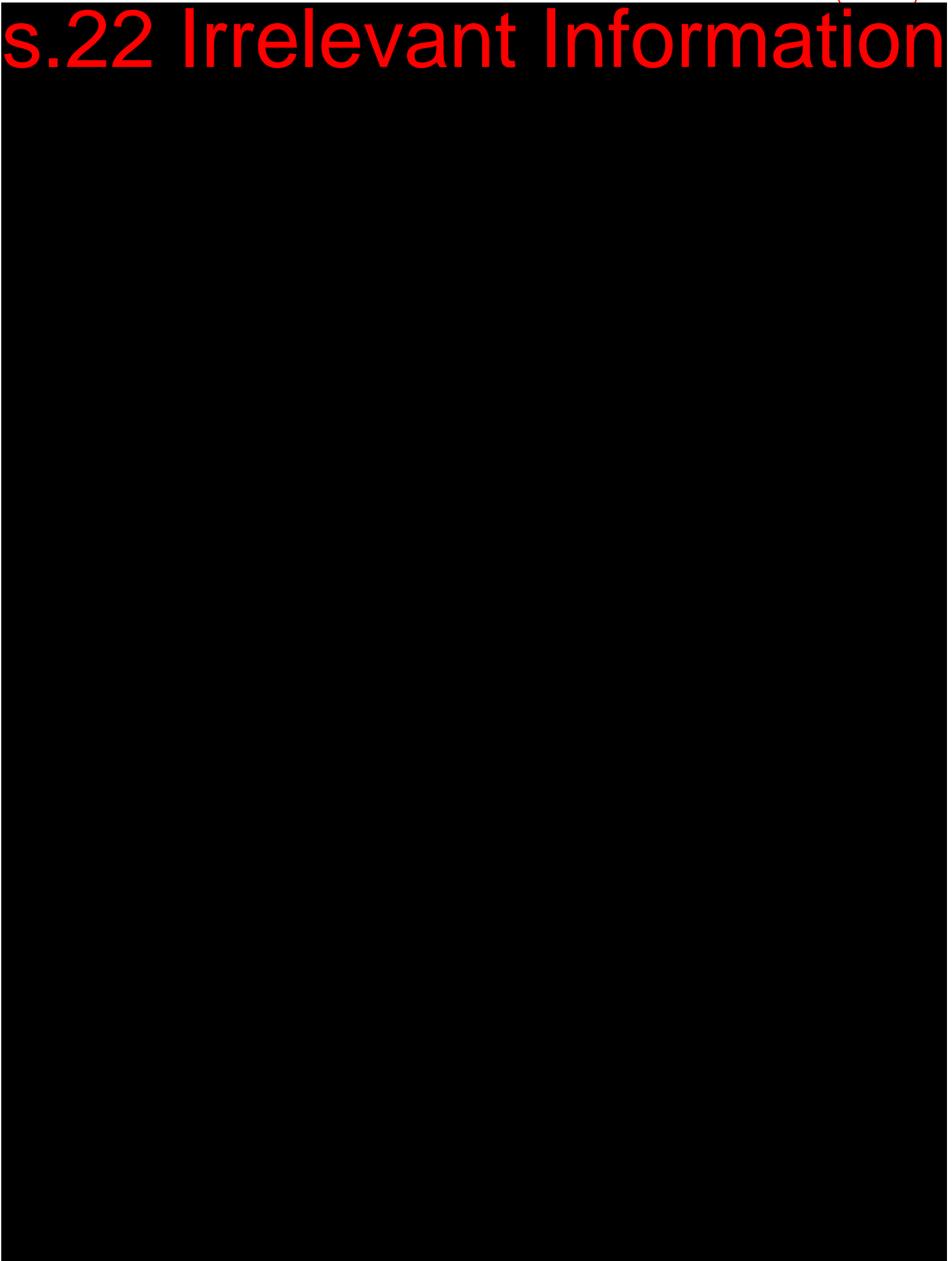
CONTINUE

Lesson 2 of 10

s.22 Irrelevant Information



s.22 Irrelevant Information



s.22 Irrelevant Information



s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

s.22 Irrelevant Information



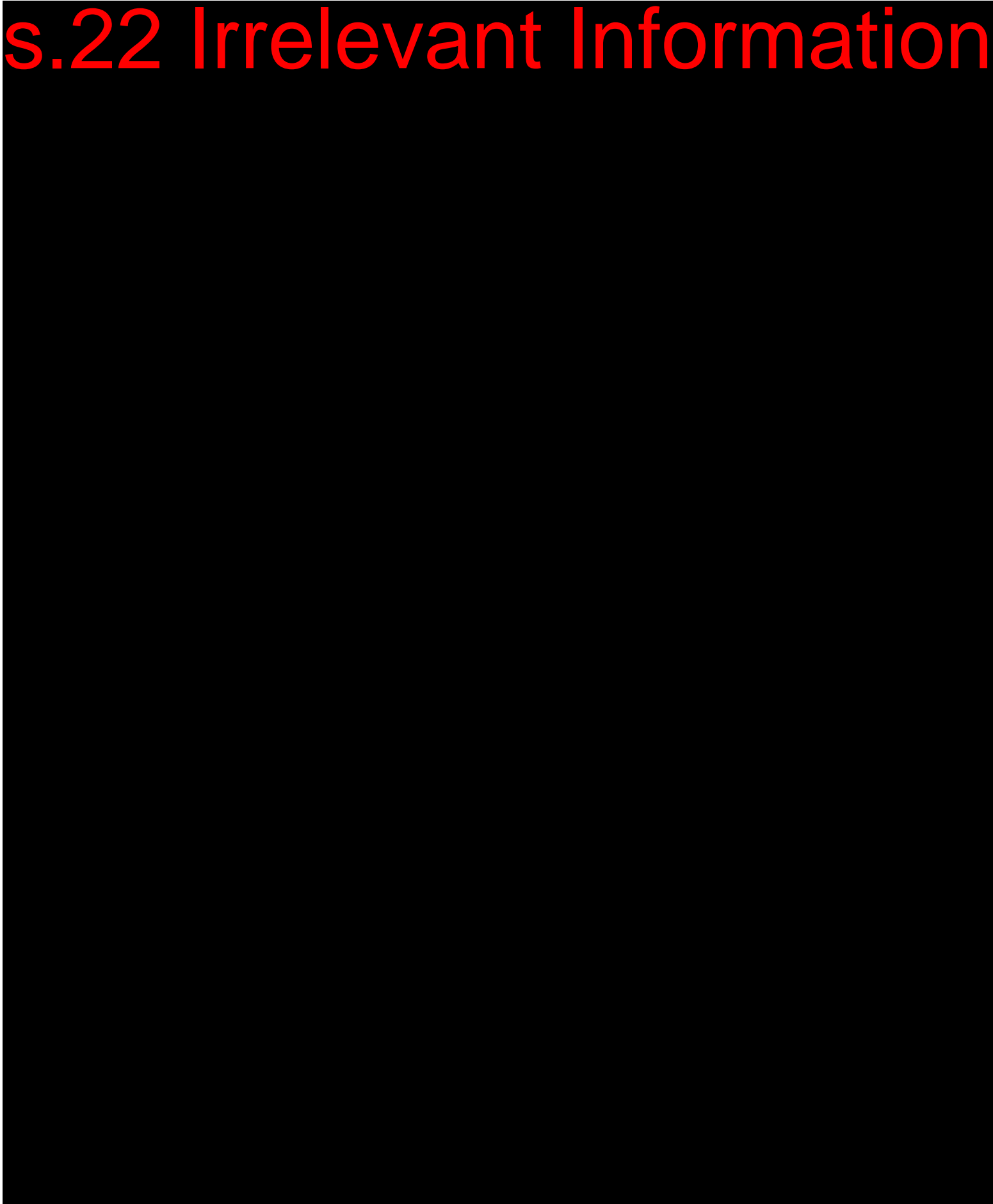
s.22 Irrelevant Information



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Documents released by the Fair Work Ombudsman
Under the Freedom of Information

s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

s.22 Irrelevant Information



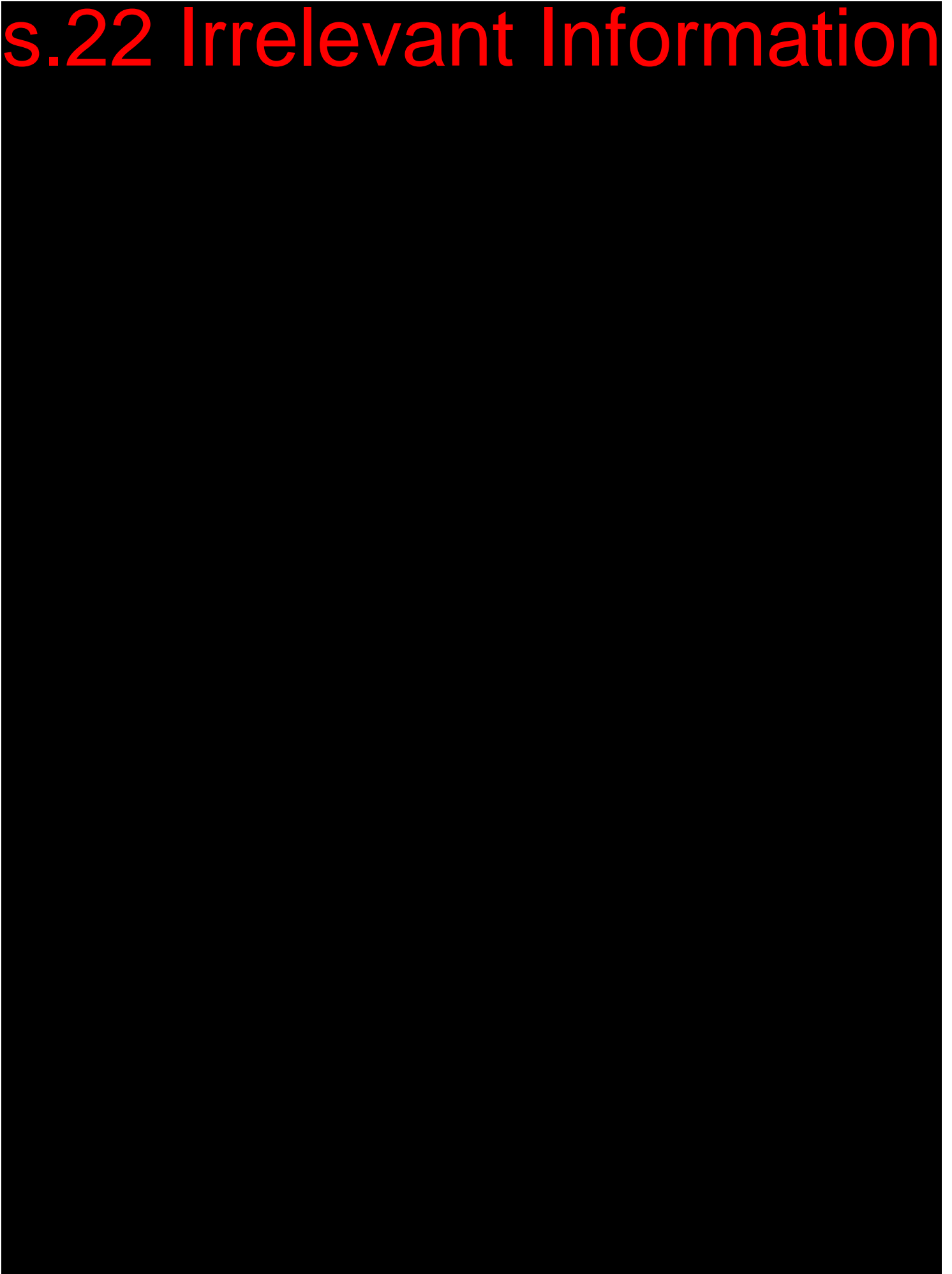
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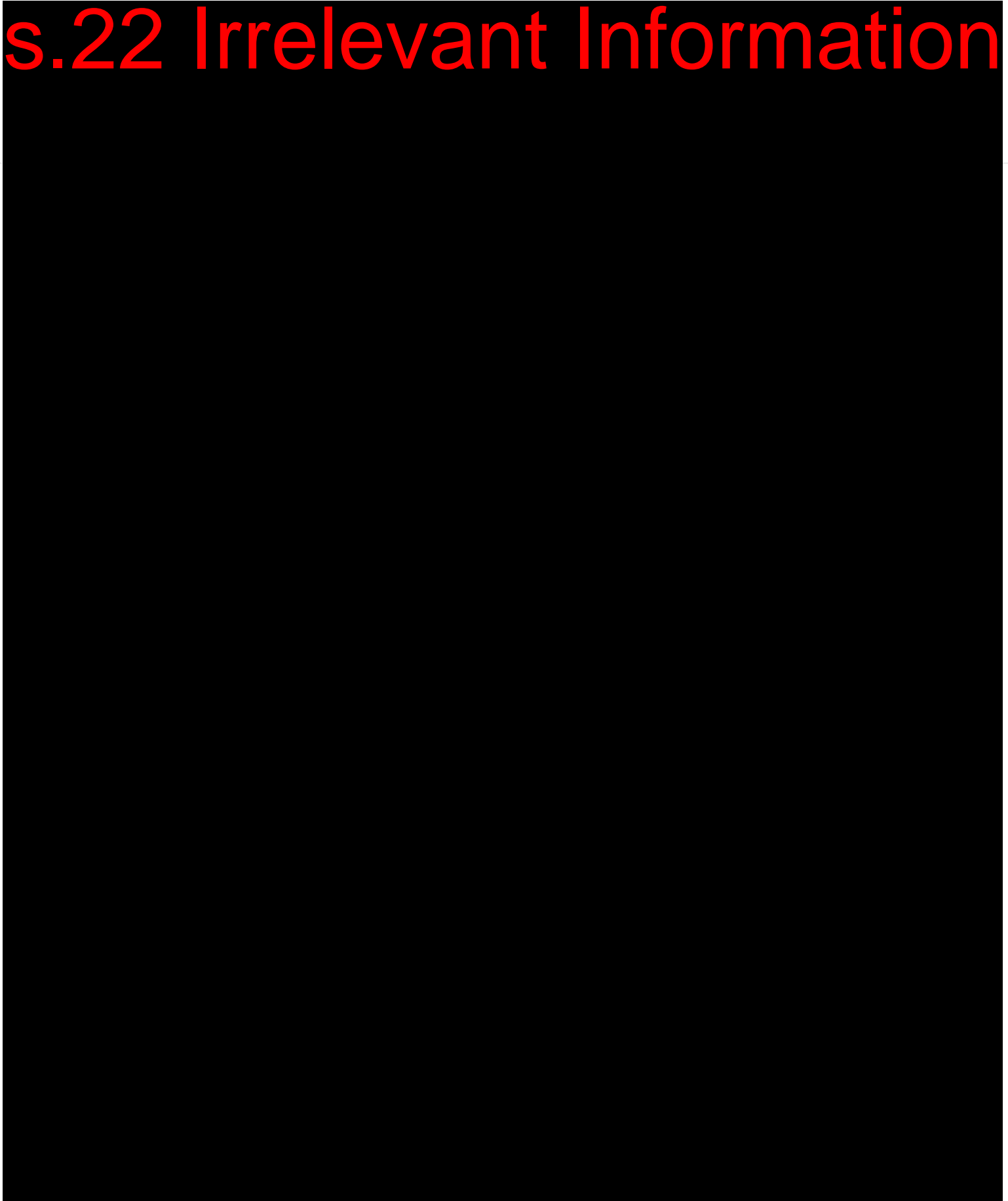
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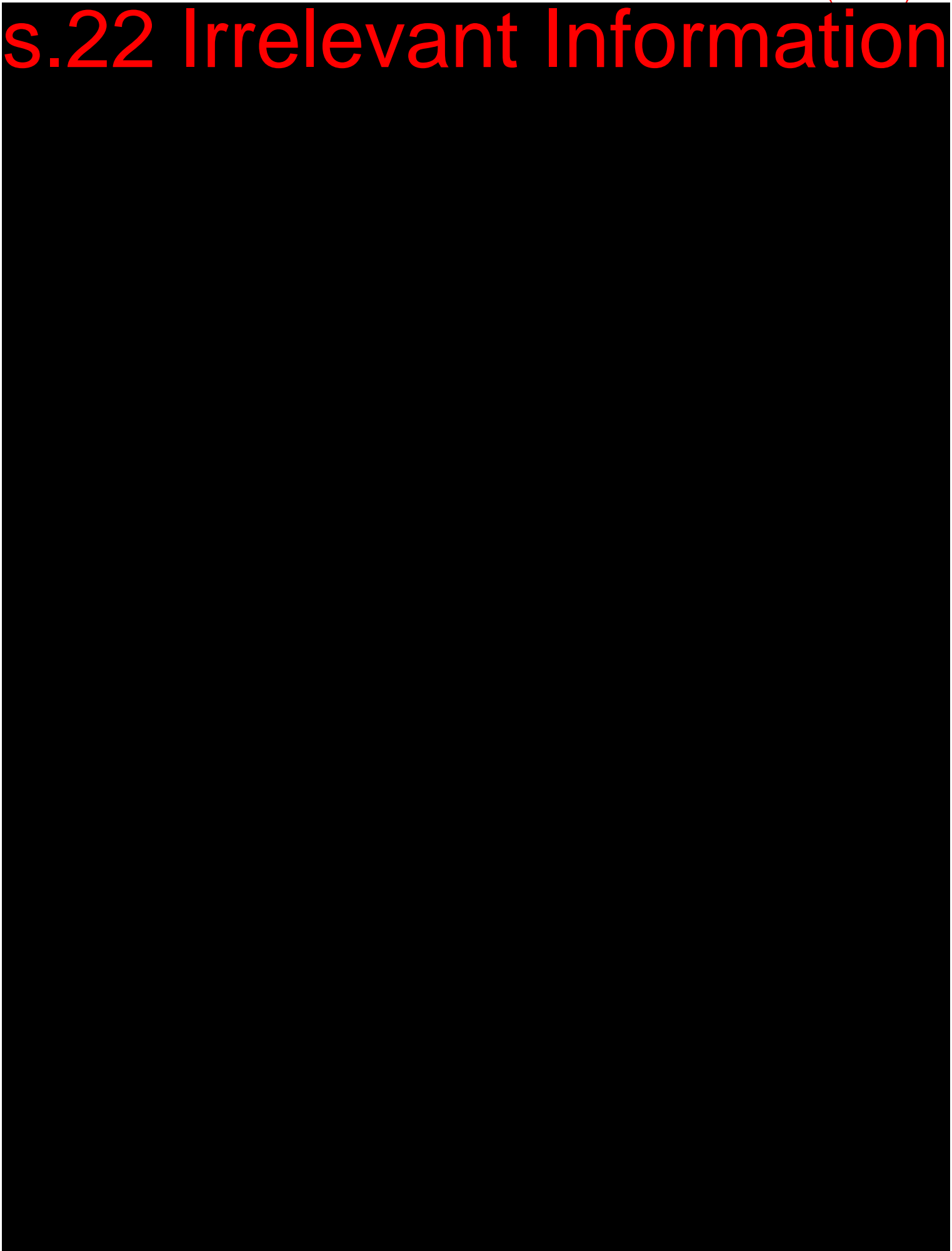
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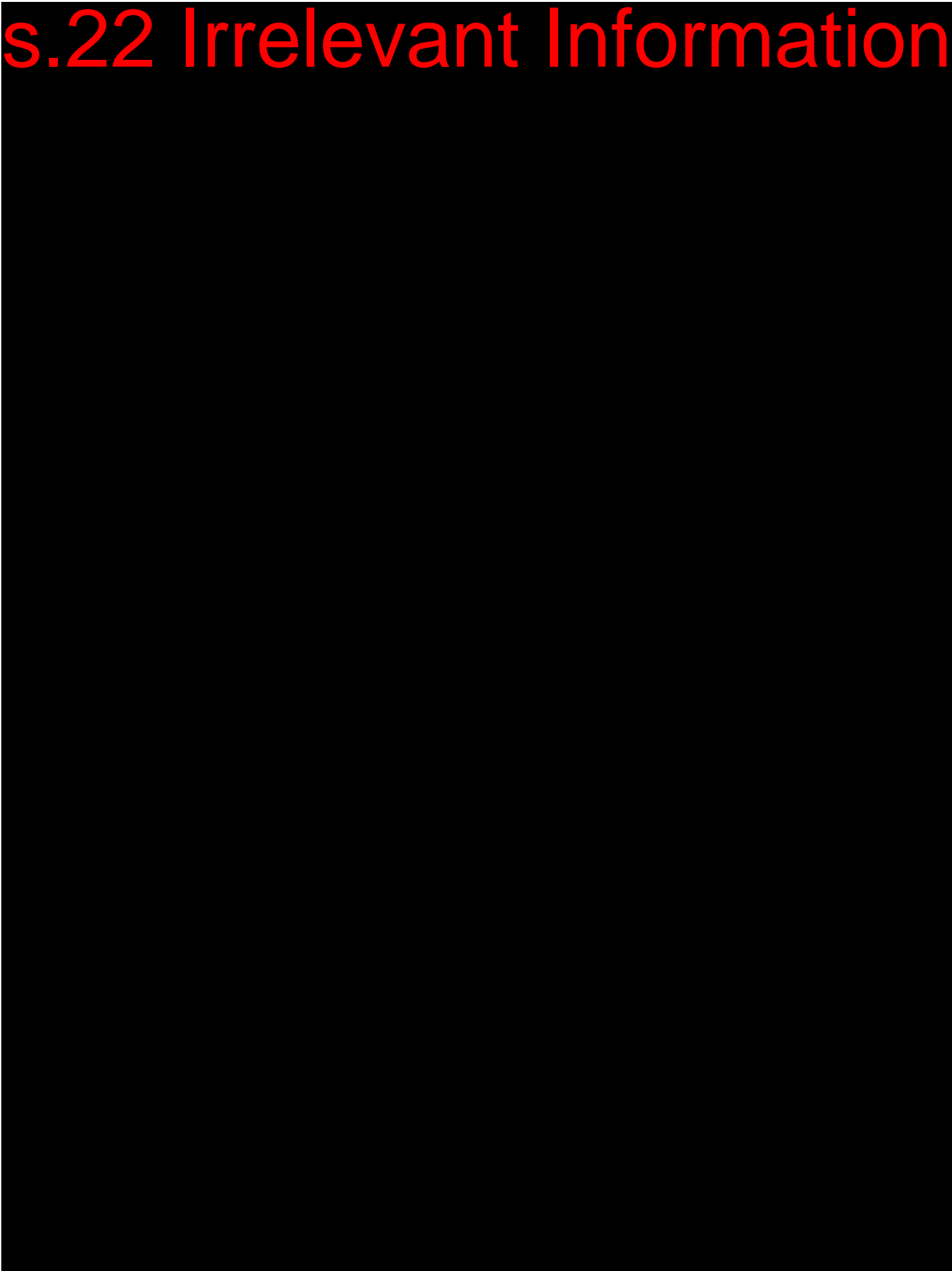
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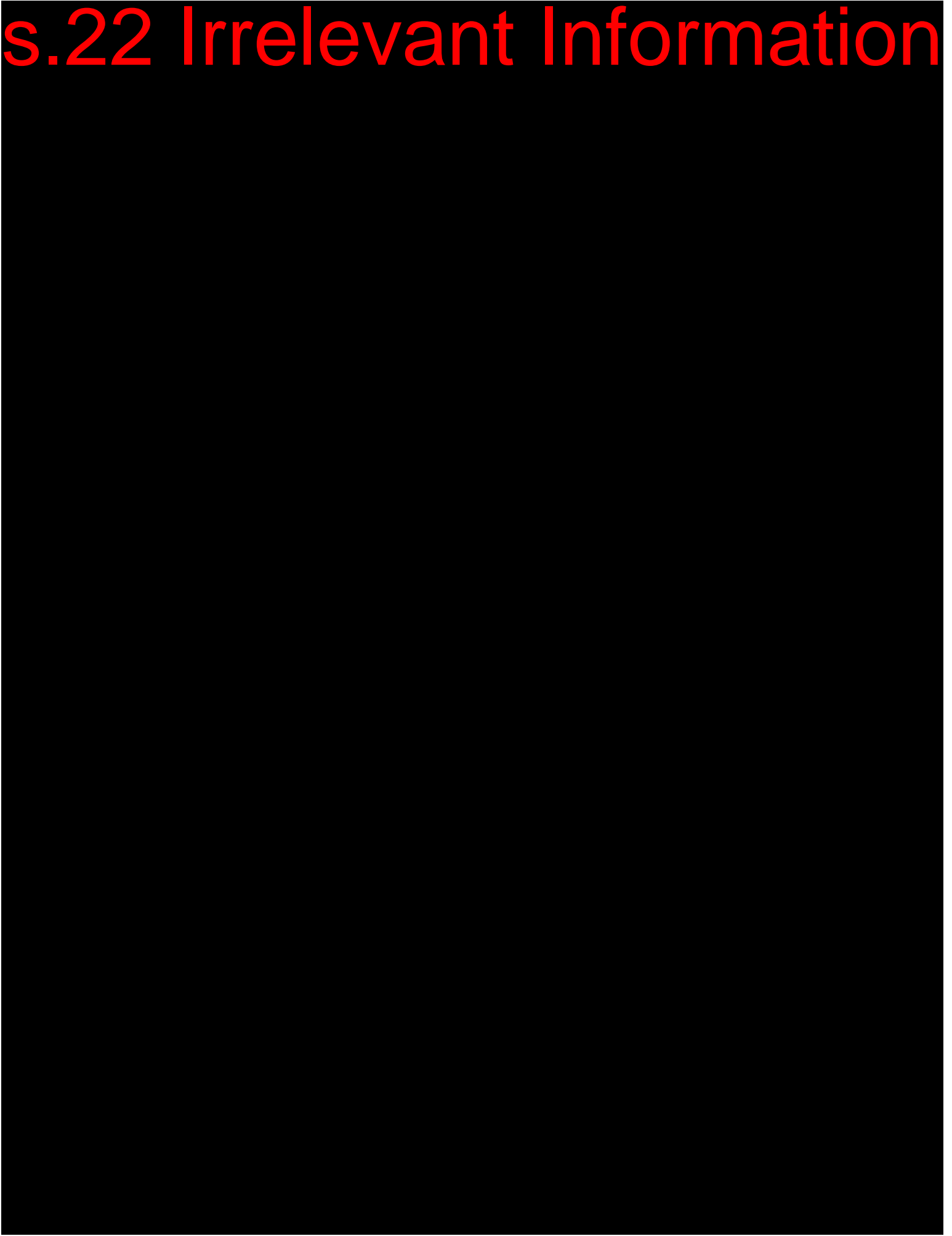
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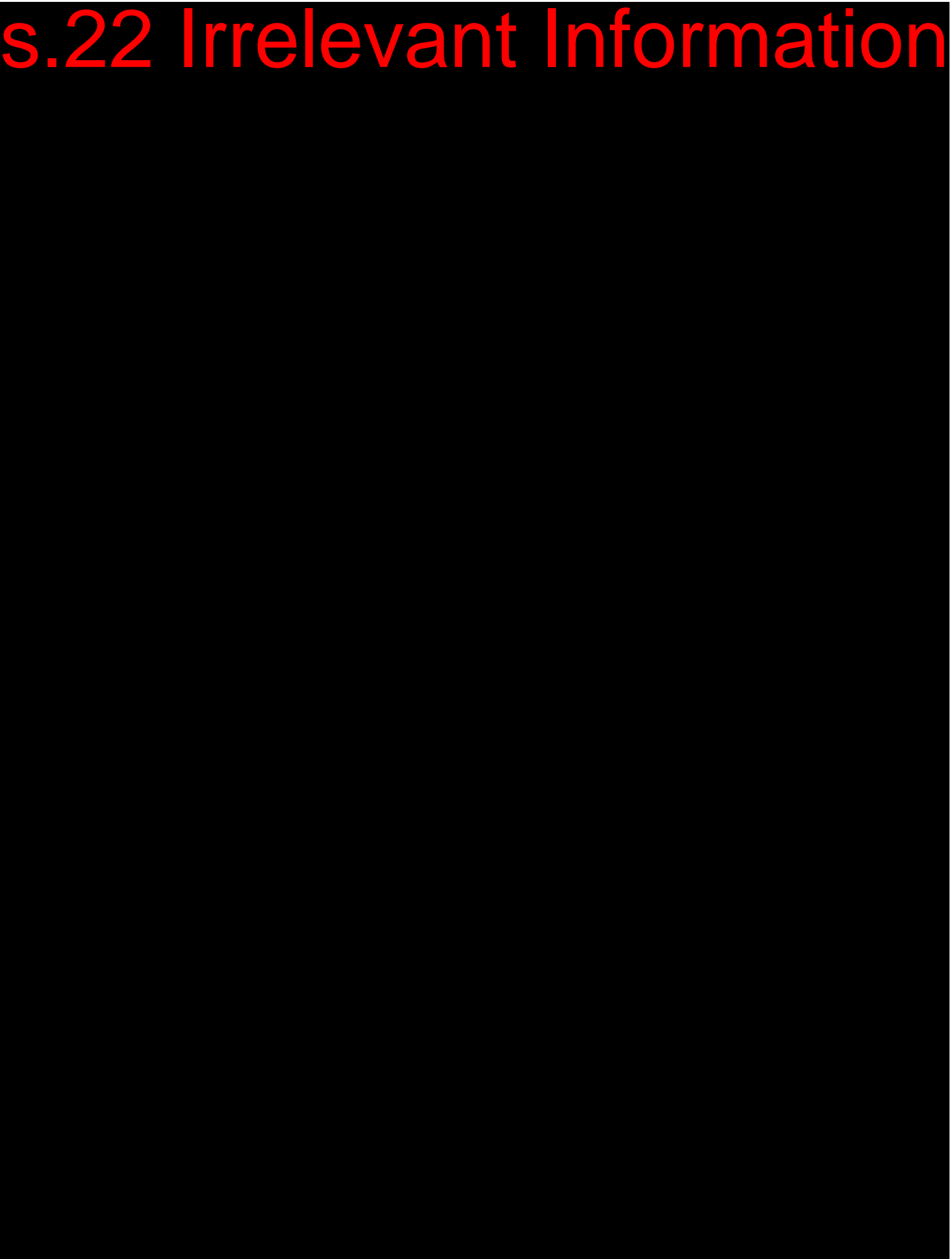
s.22 Irrelevant Information



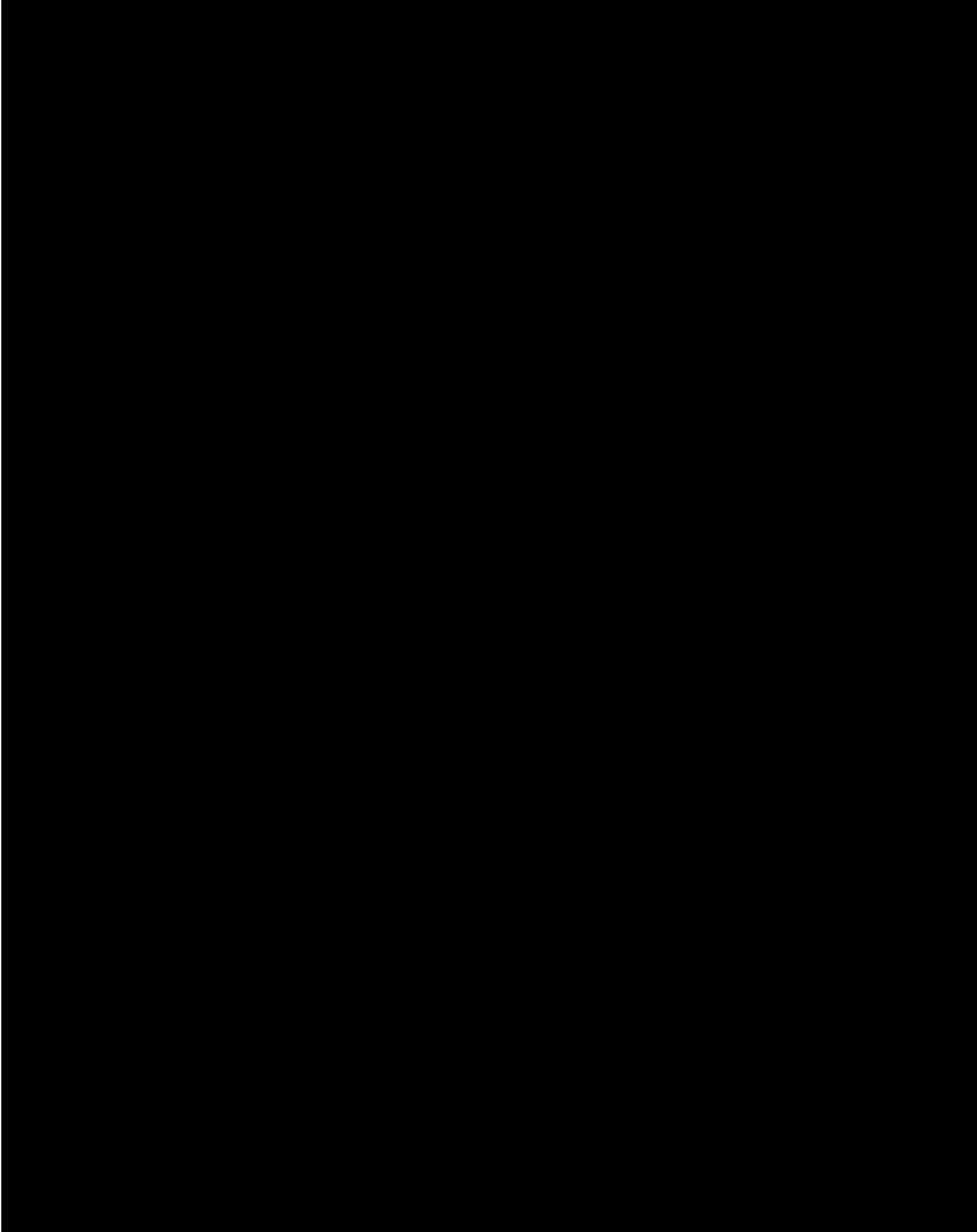
s.22 Irrelevant Information



s.22 Irrelevant Information



s.22 Irrelevant Information



Freedom of information (FOI)

When we talk about 'FOI', we mean the legal right for people to request access to government held information through the Freedom of Information Act 1982 (FOI Act).

It's important because it fosters transparency, openness and accountability. For the public, it allows scrutiny of our activities and helps develop a better understanding of our decision making.



"MORE INFORMATION"

You can find the information and resources you need from our Information access Intranet page. Our customers can find out more about the FOI process on our fairwork.gov.au website by searching 'FOI'."

TASK

Search for the **Information access** page on the Intranet.

INTRANET

How FOI affects your work

You're probably thinking FOI only applies to final copies of documents and approved letters, right?

Wrong!

The FOI Act defines a document as including the following:

Written

Any paper or other material on which there is writing, or on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them, including a map, plan, drawing or photograph.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Audio

Any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device.

Database

Any article on which information has been stored or recorded, either mechanically or electronically.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Other	Any other record of information.
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Take care when you create potential FOI documents

The interesting point to take away from this definition of an FOI document is that an FOI request may require access to information you don't expect. Consider that we may be required to provide the public with information such as:

- Your text messages
- Your email conversations
- Your comments in Titan or CustomerNet
- Any recordings or photos you capture.

It's important that your documents are accurate and professionally written. We can't withhold documents from a FOI request just because they might be embarrassing to you or to the OFWO.

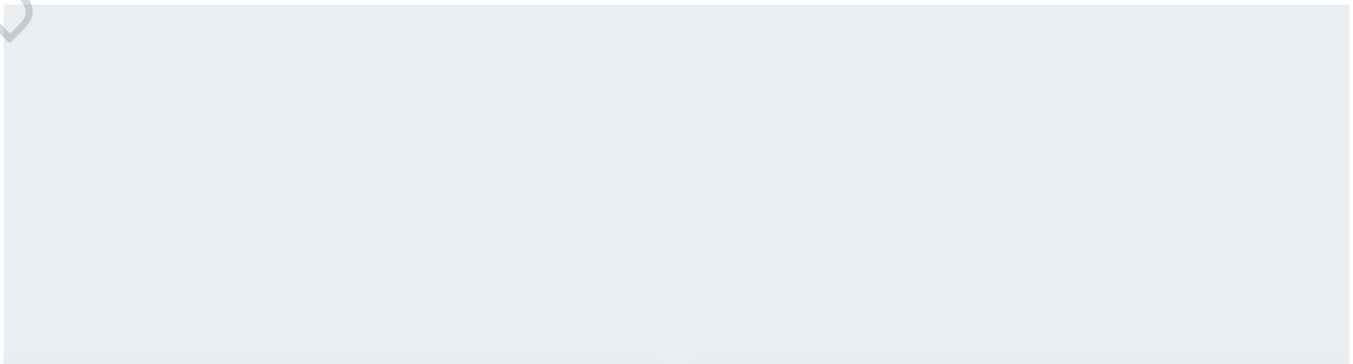
Examples of how you should (and shouldn't) write comments include:

No	Yes
'They're a dodgy mob.' (Referring to an employer)	'We have received other complaints about this employer. Refer to MAT-1111-1111 and MAT-2222-2222.'
'He's such a whinger.' (Referring to an employee)	'The complainant has made other complaints about this employer. Refer to MAT-1111-1111 and MAT-2222-2222.'
'He must be dreaming.' (Referring to the amount an employee claimed to have been underpaid)	'The complainant says he has been underpaid \$75,000. There is no evidence to support an underpayment of this amount.'

Your role in the FOI process

If the Information Governance team needs your help providing information for an FOI request, they'll contact you and provide you the details, including timeframes.

The main tasks you'll need to complete to support an FOI request are as follows:



Search requests

If you receive a search request, search for and provide documents in PDF format to the Information Governance team in a timely manner.

Concerns about request

Provide any concerns you may have about the request, or the release of the documents and their content.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

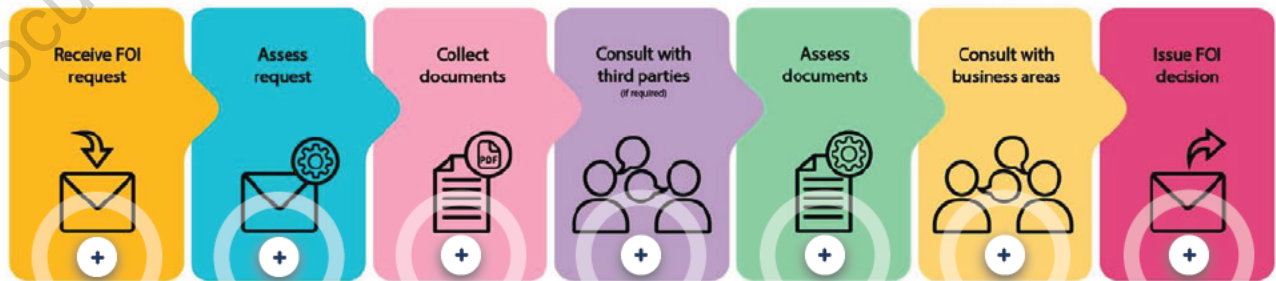
Consultation

Participate in a final consultation with the Information Governance team before they issue the decision to the FOI applicant.

The FOI timeline

The standard statutory timeframe for an FOI request is 30 days. This timeframe may be extended in certain circumstances. We must complete the 7 stages of the FOI process within the timeframe.

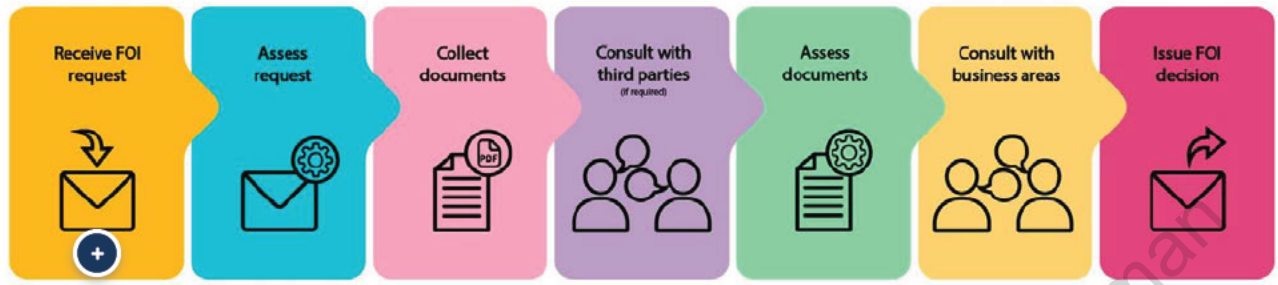
Select each stage in the diagram to find out more. Try identifying the stages you may have a role you learnt about earlier.



30 days timeframe

(may be extended in certain circumstances)





30 days timeframe
(may be extended in certain circumstances)

Receive FOI request

We normally receive FOI requests directly to the FWO FOI Requests inbox.

You can forward any FOI requests you receive to this mailbox for the Information Governance team to progress. Remember, you can find these details on the 'Accessing information' Intranet page.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

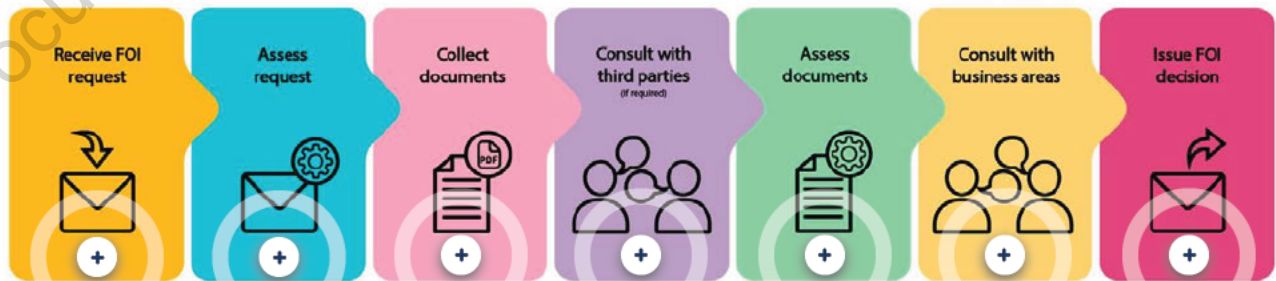
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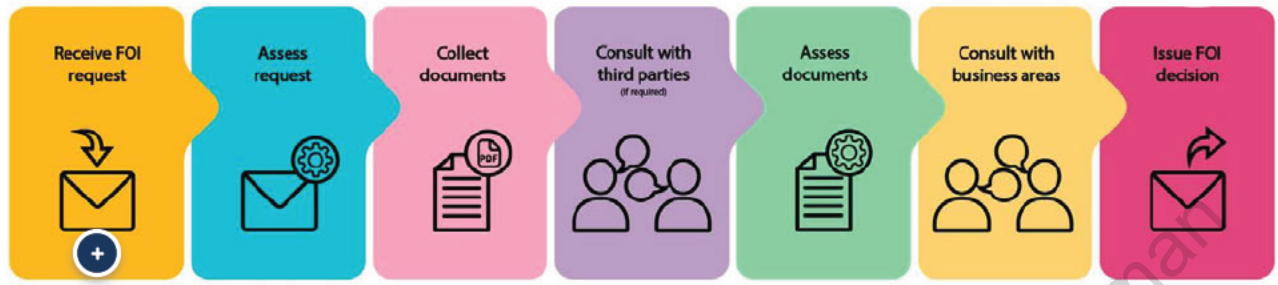
Select each stage in the diagram to find out more. Try identifying the stages you may have a role you learnt about earlier.



30 days timeframe

(may be extended in certain circumstances)





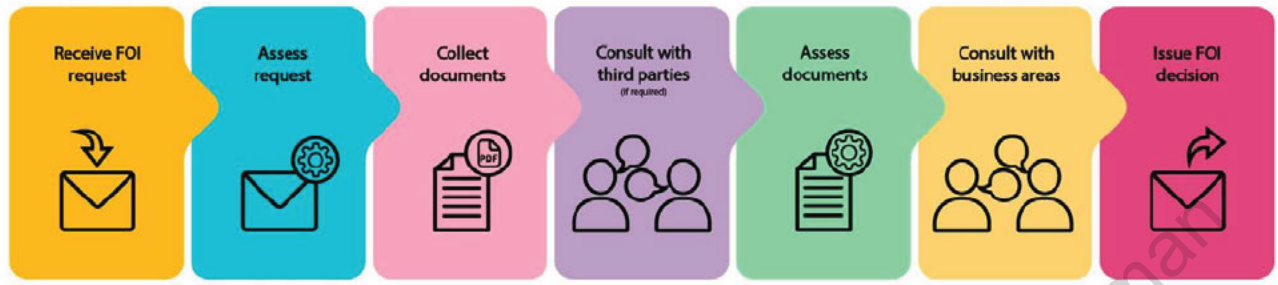
30 days timeframe
(may be extended in certain circumstances)

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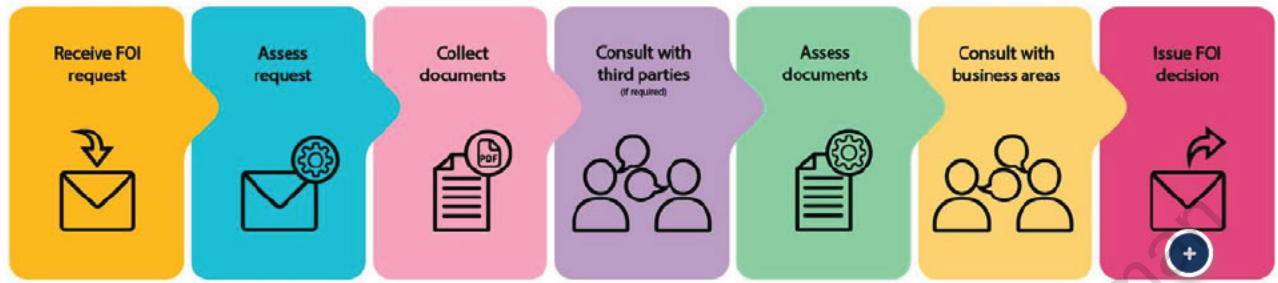
Documents released by the Fair Work Ombudsman
Under the Freedom of Information



30 days timeframe
(may be extended in certain circumstances)



Documents released by the Fair Work Ombudsman
Under the Freedom of Information

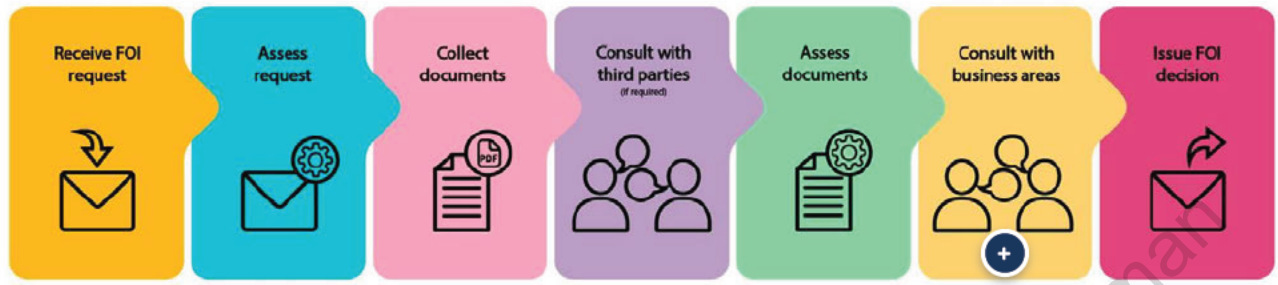


30 days timeframe
(may be extended in certain circumstances)

Issue FOI decision

The Information Governance team issues the FOI decision to the applicant within the required timeframe.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

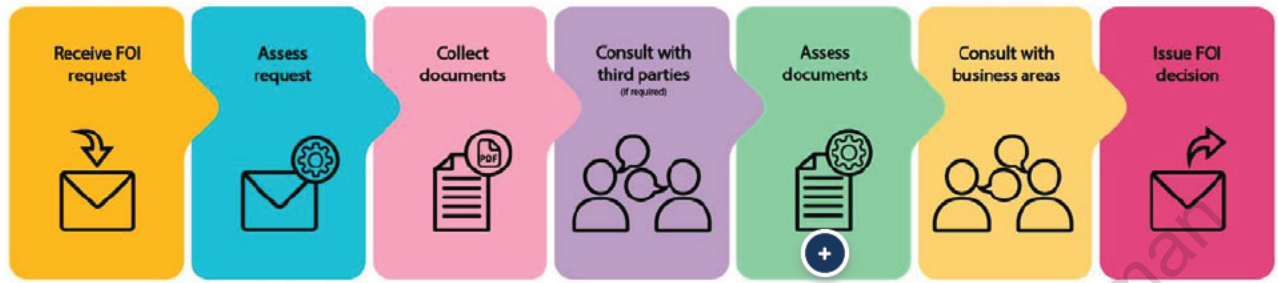


30 days timeframe
(may be extended in certain circumstances)

Consult with business areas

The Information Governance team consults with the business areas to check if they have any concerns with how the documents are prepared for release (This could be you!).

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

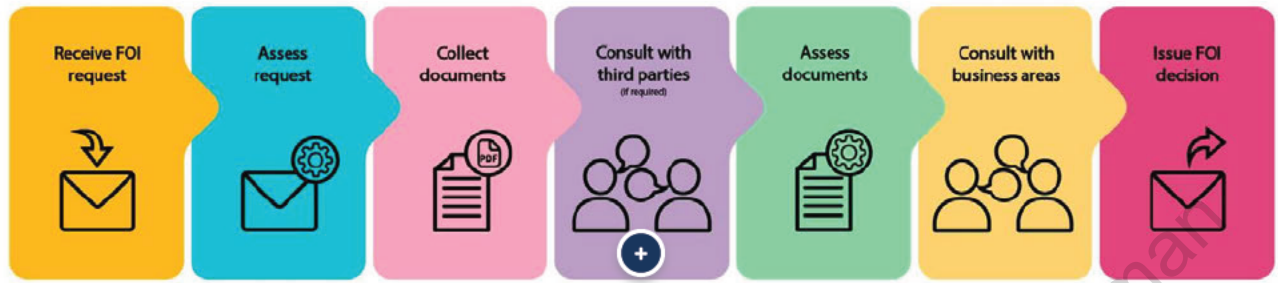


30 days timeframe
(may be extended in certain circumstances)

Assess documents

The Information Governance team assesses the release of the documents, considering any feedback provided by business areas and any objections provided by third parties.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

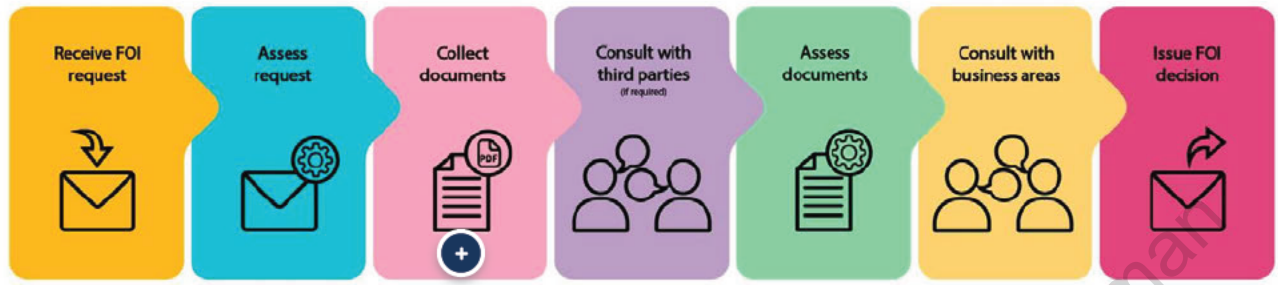


30 days timeframe
(may be extended in certain circumstances)

Consult with third parties, if it's required

The Information Governance team consults with any third parties who may object to the release of information about them.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information



30 days timeframe
(may be extended in certain circumstances)

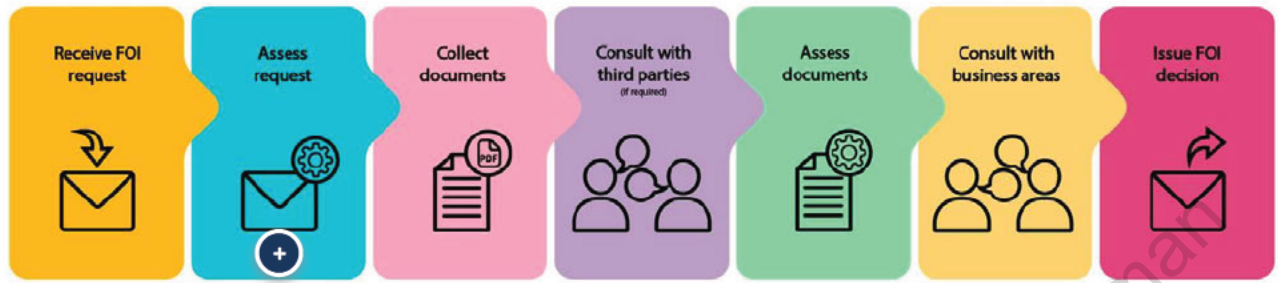
Collect documents

The Information Governance team contacts the OFWO business areas most likely responsible for providing the information (This could be you!).

We require PDF copies of all requested documents including links and attachments.

This is when you can raise any concerns you have with releasing the information.

Documents released by the Fair Work Ombudsman
Under the Freedom of Information



30 days timeframe
(may be extended in certain circumstances)

Assess request

The Information Governance team assesses the request to determine the next steps. These can include:

- discussing the scope of the request with the applicant
- handling the request outside of the FOI Act
- starting the search for documents.

CONTINUE

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Lesson 9 of 10

FOI knowledge check

People have the right to request access our documents by making an FOI request:

- either verbally, via text message or submitting a form on our website.
- via a handwritten letter.
- by emailing or posting us a letter.
- by calling 13 13 94.

SUBMIT

Examples of documents we can release relating to an FOI request include:

(Select all that apply)

-
- Documents containing the requestors own personal information.
 - Notes we've taken during our conversations with the requestor.
 - Documents that affect the enforcement of law.
 - Tribunal, court decisions or authorities we've relied on when making a decision.
 - Documents containing information which is likely to be of commercial value to a business.
 - Call information from our Infoline relating to the requestor.

SUBMIT

The timeframe we are required to provide an FOI decision that isn't formally extended, is within:

- 14 days
- 30 days
- 60 days

SUBMIT

In what ways can you help the OFWO comply with our FOI obligations?
(select all that apply)

- Prepare documents and write emails with professional language.
- If requested, provide PDF versions of documents from

OFWO systems that may be relevant to the FOI request.

- If requested, provide PNG versions of documents from any system that may be relevant to the FOI request.
- Keep your documents and records in appropriate OFWO systems.
- Ignore search requests sent by the Information Governance team.
- Respond to FOI search requests in a timely manner.
- Raise any concerns with the release of documents at the end of the FOI process.

SUBMIT

What is the most suitable way you can help a person get more information about making an FOI request and the FOI process?

- Access our Intranet and search for 'Information access'.
- Call 13 13 94 and ask to make an FOI request.
- Ask them to go to fairwork.gov.au and search 'FOI' to find our Accessing our information page.

SUBMIT

CONTINUE

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Lesson 10 of 10

Conclusion

Well done! You have successfully completed the Privacy and freedom of information module.

You can come back at any time to review the content.



"You should now know:

- how to identify information defined as personal
- how privacy affects your work
- where you fit in the FOI process
- how to explain your role in our response to FOI requests.

Select the **Exit** button to return to the Privacy and Freedom of Information (New Starter) course page:

EXIT

DATE

Email:

FWO reference: IA-XXXX

Freedom of Information request Third party consultation

Dear NAME,

The office of the Fair Work Ombudsman (OFWO) has received a Freedom of Information (FOI) request that captures documents containing your personal information and business information related to BUSINESS. We now seek your assistance to provide us with your views on the release of this information to the FOI applicant.

Under the *Freedom of Information Act 1982* (FOI Act), where an Australian Government agency receives a request covering documents of this kind and the agency believes that the person or organisation concerned may wish to contend that the documents are exempt from release, the agency is required to consult the person or business before releasing the documents, if it is reasonably practicable to do so.

Opportunity to make a submission

I invite you to tell me of any objection you or (BUSINESS) may have to the release of any of the attached documents under either of the following exemptions in the FOI Act (paraphrased):

- Section 47F – Disclosure would involve the unreasonable disclosure of personal information about any person having regard to:
 - the extent to which the information is well known.
 - whether you are known to be (or to have been) associated with the matters dealt with in the document
 - the availability of the information from publicly accessible sources
 - any other matters that the OFWO considers relevant.
- Section 47(1) – disclosure of the documents would disclose
 - a) trade secrets or
 - b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- Section 47G(1) – disclosure of the documents would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information
 - a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs, or
 - b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

More information about these exemptions is available in the *Guidelines issued by the Australian Information Commissioner under section 93A of the Freedom of Information Act 1982*, in [Parts 5 \(Exemptions\)](#) and [6 \(Conditional Exemptions\)](#).

If section 47(1) applies, documents are fully exempt from release. However, if section 47G(1) or 47F applies access must be given to documents unless this would be contrary to the public interest. If you consider that the documents fall within the scope of section 47F or 47G(1) you must also indicate whether you believe that disclosure would be contrary to the public interest.

Please note that it is not sufficient simply to assert that one of the exemptions applies and that disclosure would be contrary to the public interest. You need to provide reasons and supporting evidence. Also, while your comments will be taken into account, the final decision about whether to release the documents rests with the decision maker in our agency.

Requested action

A copy of the documents on which we seek your advice is attached for your review and consideration. Please note that some irrelevant information has been deleted for the purposes of this consultation.

1. Please consider the documents carefully.
2. If you think that any information should be exempt from disclosure, please identify the information and state reasons in writing.
3. If you think that release of any information from the documents would be contrary to the public interest test, please state reasons in writing.
4. Please provide your submissions to us as soon as you can, but no later than **XX MONTH YEAR**. Please send your submissions to foi@fwo.gov.au.

If I do not receive a response by **5:00 pm, XX MONTH YEAR**, I will assume you do not object to the release of the documents.

If the OFWO decides to grant access to any material contrary to your submissions, we will provide you with written notice of the decision and the opportunity to seek review of the decision before releasing the relevant material.

FOI Disclosure Log

The OFWO may be required to publish copies of documents to which it has granted access on our website in accordance with section 11C of the FOI Act. The OFWO will not publish documents if it would be unreasonable to do so (for example, if the documents contain personal or business information and it would be unreasonable to publish that information).

Contact details

If you would like to discuss the matter, please contact the OFWO's FOI team by emailing foi@fwo.gov.au and providing your telephone number. A team member will then call you back at a mutually convenient time.

Yours sincerely

s.22 Irrelevant Information

Assistant Director Information Governance
Office of the Fair Work Ombudsman



DATE

By email:

FWO reference: IA-XXXX

Freedom of Information request Third party consultation

Dear NAME,

The office of the Fair Work Ombudsman (FWO) has received a Freedom of Information (FOI) request that captures documents containing your personal information. We now seek your assistance to provide us with your views on the release of this information to the FOI applicant.

Requirement to consult with third parties

Where documents contain personal information of an individual, section 27A of the *Freedom of Information Act 1982* (FOI Act) requires agencies to consult with and provide reasonable opportunity for affected persons to make submissions before making a decision whether to release the relevant information to the applicant.

Opportunity to make a submission

I invite you to tell me of any objection you may have to the release of any of the attached documents under the following exemption in the FOI Act (paraphrased):

- Section 47F – Disclosure would involve the unreasonable disclosure of personal information about any person having regard to:
 - the extent to which the information is well known.
 - whether you are known to be (or to have been) associated with the matters dealt with in the document
 - the availability of the information from publicly accessible sources
 - any other matters that the FWO considers relevant.

More information about the personal privacy exemption is available in the *Guidelines issued by the Australian Information Commissioner under section 93A of the Freedom of Information Act 1982*, in Parts [6 \(Conditional Exemptions\)](#).

If section 47F applies access must be given to documents unless this would be contrary to the public interest. If you consider that the documents fall within the scope of section 47F you must also indicate whether you believe that disclosure would be contrary to the public interest.

Please note that it is not sufficient simply to assert that the exemption applies, and that disclosure would be contrary to the public interest. You need to provide reasons and supporting evidence. Also, while your comments will be taken into account, the final decision about whether to release the documents rests with the decision maker in our agency.

Requested action

A copy of the documents on which we seek your advice is attached for your review and consideration. Please note that some irrelevant information has been deleted for the purposes of this consultation.

1. Please consider the documents carefully.
2. If you think that any information should be exempt from disclosure, please identify the information and state reasons in writing.
3. If you think that release of any information from the documents would be contrary to the public interest test, please state reasons in writing.
4. Please provide your submissions to us as soon as you can, but no later than **DATE 2023**. Please send your submissions to foi@fwo.gov.au.

If I do not receive a response by **5:00 pm, DATE 2023**, I will assume you do not object to the release of the documents.

If the OFWO decides to grant access to any material contrary to your submissions, we will provide you with written notice of the decision and the opportunity to seek review of the decision before releasing the relevant material.

FOI Disclosure Log

The OFWO may be required to publish copies of documents to which it has granted access on our website in accordance with section 11C of the FOI Act. The OFWO will not publish documents if it would be unreasonable to do so (for example, if the documents contain personal information and it would be unreasonable to publish that information) in accordance with that section.

Contact details

If you would like to discuss the matter, please contact the OFWO's FOI team by emailing foi@fwo.gov.au and providing your telephone number. A team member will then call you back at a mutually convenient time.

Yours sincerely

s.22 Irrelevant Information

Assistant Director Information Governance
The Office of the Fair Work Ombudsman

DATE

FWO reference:

Freedom of Information request

Notice of extended timeframe – third party consultation required

Dear APPLICANT

I refer to your requests submitted to the office of the Fair Work Ombudsman (OFWO) on DATE under the *Freedom of Information Act 1982* (FOI Act) for the following:

SCOPE

Requirement to consult with third parties

The OFWO has identified documents within the scope of the request that contain personal information and information about a business, commercial or financial affairs of third parties.

In accordance with section 27 and 27A of the FOI Act, the OFWO is required to consult with the relevant individuals and business before deciding whether to release the information to you.

We will take into account any comments we receive from affected third parties, however the final decision about whether to grant access to the documents which are the subject of your request rests with the OFWO's authorised decision-maker.

Consent to being identified as the FOI applicant

We can advise the affected third parties that you are the person who has requested the information with your agreement. Providing your identity to third parties may assist the affected third parties in making an informed decision to agree or object to the release of information you have requested.

Please advise us if you agree to be identified as the FOI applicant

Further processing of your request

To enable the consultation with the affected third party to occur, the statutory period for processing your FOI request is extended by thirty (30) days. This extension of the due date is made in accordance with section 15(6) of the FOI Act. The revised due date for a decision on access is DATE

We would appreciate if you can provide your response on whether you consent to being identified as the applicant by COB (4 days from date of letter).

We will continue to keep you informed of the progress of this matter. In the meantime, should you require any further information, please contact us via foi@fwo.gov.au quoting reference number IA-XXXX

Yours sincerely

s.22 Irrelevant Information

**Assistant Director Information Governance
Fair Work Ombudsman**

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

OFFICIAL: Sensitive

Dear XXXX

Please refer to attached correspondence regarding a Freedom of Information request received by the office of the Fair Work Ombudsman.

We would appreciate it if you will confirm receipt of the above correspondence.

Yours sincerely

Dear XXXX

The office of the Fair Work Ombudsman (OFWO) has received a Freedom of Information (FOI) request that captures documents containing your personal information. We now seek your assistance to provide us with your views on the release of this information to the FOI applicant.

The attached notice invites you to tell me of any objection you may have to the release of any of the attached documents under the FOI Act.

Consent has not been provided by the FOI applicant to reveal their identity.

Please confirm receipt of this correspondence.

We would appreciate a response by cob xxx 2023.

Thank you

Dear xxxxx

The office of the Fair Work Ombudsman (OFWO) has received a Freedom of Information (FOI) request that that captures documents containing the following:

- your personal information,
- business information related to BUSINESS., and
- personal information of individuals that are represented by BUSINESS.

We now seek your assistance to provide us with your views on the release of this information to the FOI applicant.

The attached notice invites you to tell me of any objection you may have to the release of any of the attached documents under the FOI Act.

Consent has not been provided by the FOI applicant to reveal their identity.

Please confirm receipt of this correspondence.

We would appreciate a response by cob DATE 2023.

OFFICIAL: Sensitive

Dear **APPLICANT**

I refer to your Freedom of Information requests submitted to the office of Fair Work Ombudsman (OFWO) on **DATE** under the *Freedom of Information Act 1982* (FOI Act).

The OFWO has identified documents within the scope of your requests that contain personal information and information about a business, commercial or financial affairs of third parties.

In accordance with section 27 and 27A of the FOI Act, the OFWO is required to consult with the relevant individuals and business before deciding whether to release the information to you.

The attached notice provides further information with regards to the requirement to consult.

Kind regards

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

OFFICIAL: Sensitive

I refer to a request submitted to the office of the Fair Work Ombudsman (**OFWO**) on DATE under the *Freedom of Information Act 1982 (FOI Act)* for documents requested by APPLICANT.

We consulted with you in relation to the release of business/personal information about BUSINESS and note your objection to the release received on DATE.

I am writing to advise you that the documents we provided to you during the consultation will not be released to the applicant. A decision has been issued to the applicant today, DATE.

If you have any questions about the consultation please let me know.

Kind Regards,

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

OFFICIAL: Sensitive

Dear xx

I refer to a request submitted to the office of the Fair Work Ombudsman (**OFWO**) on xx under the *Freedom of Information Act 1982 (FOI Act)* for documents requested by APPLICANT.

We consulted with you in relation to the release of information obtained from xx and note in your reply of xxx that you had no objections to the information being released.

I am writing to advise you that the documents will not be released to the applicant, with *EXEMPTION* applied to xx. A decision has been issued to the applicant today, DATE 2022.

If you have any questions please let me know.

Yours sincerely

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

GPO Box 9887
Melbourne VIC 3001

DATE

NAME

By email:

Reference number: IA-XXXX

Notice of Decision - Freedom of Information request

Dear NAME

I refer to your request submitted to the office of the Fair Work Ombudsman (OFWO) on DATE under the *Freedom of Information Act 1982 (FOI Act)* for access to documents held by the Fair Work Ombudsman (OFWO). Specifically, you requested:

SCOPE

Processing timeframe

The statutory period for processing a request is 30 days unless it is extended by agreement under s 15AA or by the Office of the Australian Information Commissioner (OAIC) under s 15AB, or in accordance with section 15(6) of the FOI Act to consult with third parties. The due date for a decision is XX MONTH YEAR.

Matters taken into account in making my decision

In making my decision, I took the following matters into account:

- the scope of the request
- the search response
- the FOI Act
- the Australian Information Commissioner's [FOI Guidelines](#)
- internal consultation

Searches

A thorough and diligent search was conducted of OFWO records held BUSINESS UNIT/S to identify any documents falling within the scope of your request.

DECISION

Section 24A(1) of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document, and the agency is satisfied that the document does not exist.

No documents falling within the scope of your request were found to be held by the OFWO.

Further information

The Office of the Fair Work Ombudsman is established by the *Fair Work Act 2009* which clearly defines the role and responsibility of the Fair Work Ombudsman.

You may find it helpful in terms of understanding what types of information and documents the OFWO holds to review information about the FWO and its role and purpose, together with supporting documents that guide FWO operations at the [FWO website](#).

Review rights

I have attached a document setting out your rights of review of this decision at **Attachment A**.

Contact details

For further information, please email foi@fwo.gov.au.

Yours sincerely

s.22 Irrelevant Information

**Assistant Director Information Governance
Fair Work Ombudsman**

Attachment A

INFORMATION ON RIGHTS OF REVIEW & COMPLAINTS

Rights of review

If you are dissatisfied with this decision you can apply for internal review by this agency (Option 1 below) or external review by the Australian Information Commissioner (IC Review) (Option 2 below).

You do not have to apply for internal review before seeking IC review. However, the Information Commissioner has expressed the view that it is preferable for a person to seek internal review by the agency before applying for IC Review. If you choose Option 1 (internal review), you can also apply for IC review of the internal review decision within 60 days after receiving notice of our review decision.

Option 1 – Internal review

You can seek internal review of the decision. An application for internal review must be made in writing within 30 days after the date you were notified of the decision, or within such further period as the Fair Work Ombudsman allows. The internal review will be conducted by a senior officer who had no involvement in the initial decision.

There is no particular form required to make a request for internal review. However, it would help the reviewer if you said, in writing, why you think the decision should be reviewed. An application for an internal review of the decision should be sent to:

Email: foi@fwo.gov.au

FOI Manager

GPO Box 9887

MELBOURNE VIC 3001

Option 2 – Review by the Australian Information Commissioner

Alternatively, you can apply to the Australian Information Commissioner for IC review of the decision.

An application for IC Review must be made within 30 days after the day you were given notice of this decision and the decision relates to an access grant decision (s 54M(2)(a))¹ or 60 days where the decision relates to an 'access refusal decision' (s 54L(s)(a)):²

In making your application, you need to provide an address for notices to be sent (this can be an email address) and a copy of this decision. It would also help the Australian Information Commissioner if you set out the reasons for seeking IC review in your application.

To apply for IC review, you can file your application via the [Information Commissioner review application form](#).

Complaints

You can complain to the Australian Information Commissioner about action taken by the Fair Work Ombudsman in relation to your freedom of information request. Your complaint must be in writing and it is the Information Commissioner's preference that an online complaint form is completed. You can lodge your complaint via the OAIC's [FOI complaint form](#).

¹ An "access grant decision" is defined in s 53B of the FOI Act to mean a decision to grant access to a document where there is a requirement to consult with a third party under ss 26A, 27 or 27A.

² An "access refusal decision" is defined in s 53A of the FOI Act and Part 10 of the FOI Guidelines at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

GPO Box 9887
Melbourne VIC 3001

[DATE]

[NAME]

By email: XXXXXXXXX

Reference number: IA-XXXX

Notice of Decision – Freedom of Information request

Dear [NAME]

I refer to your request submitted to the office of the Fair Work Ombudsman (OFWO) on [DATE] under the *Freedom of Information Act 1982* (FOI Act).

This letter sets out my decision in relation to the documents relevant to your request which I am authorised to make under section 23 of the FOI Act.

Scope of Request

"....."

Timeframe for processing the request

The statutory period for processing Freedom of Information requests under the FOI Act is 30 days. The original decision date for processing this request was [DATE].

On [DATE] the OFWO notified you of a requirement to consult with third parties in accordance with section 27 of the FOI Act. This consultation requirement extended the processing timeframe by a further 30 days in accordance with s 15(6) of the FOI Act, and the due date for a notice of decision on access is [DATE].

Third party consultation

The OFWO consulted with four third-party individuals and one third-party organisation under section 27 of the FOI Act on the basis that they may reasonably wish to make a contention that certain information pertaining to their business and personal affairs should be exempt.

Matters taken into account in making this decision on access

In making my decision, I took the following matters into account:

- The scope of the request
- The documents
- The FOI Act
- The Australian Information Commissioner's FOI Guidelines

- Internal consultation
- Consultation with relevant third parties

Searches

I arranged for searches of OFWO records to identify any documents falling within the scope of the FOI request. Records searched included those held by **Compliance and Enforcement Teams**. The search identified **XXX** relevant documents with attachments (**XX** pages in total).

DECISION

I have determined that the documents include conditionally exempt material under sections XXXX of the FOI Act and can be released to you in part **OR** are fully exempt

OR

I have determined that the documents can be released in full

The relevant documents are outlined in the schedule at **Attachment A** to this letter. Attachment A lists exemptions relied upon under the FOI Act, and detailed reasons for my decision follow.

Section 22 – Irrelevant information

On XX MONTH 2022 you confirmed the following types of information as irrelevant to the scope request:

- duplicate documents, including duplicate emails. The OFWO will provide emails where they form a final email chain and the authors/recipients are contained within the final email
- names of OFWO staff members, direct telephone numbers, email addresses and signatures of OFWO staff (other than Senior Executives)
- electronic documents where a written summary exists (for example enquiry telephone recordings)
- third party personal information (for example names, contact details, dob, health information).

Information that does not fall within the scope of the request has been redacted from the documents under section 22 of the FOI Act as irrelevant information.

The types of information redacted under section 22 include the Fair Work Ombudsman account details, employee user ID's, names and contact information as well as personal information of third parties, including their names, contact details date of births and other identifying information.

Exemptions applied and reasons for decision

Section 42 - Documents subject to legal professional privilege

Section 42 of the FOI Act provides that a document is an exempt document if it would be privileged from production in legal proceedings on the ground of legal professional privilege, and if any person entitled to claim to legal professional privilege has not waived that claim.

For the purpose of the privilege, 'advice' extends to professional advice as to what a party should prudently or sensibly do in the relevant legal context.

At common law, determining whether a communication is privileged requires a consideration of:

- whether there is a legal adviser-client relationship
- whether the communication was for the purpose of giving or receiving legal advice, or use in connection with actual or anticipated litigation
- whether the advice given is independent
- whether the advice given is confidential.

Documents to which this exemption has been applied include email correspondence between Enforcement Officers and OFWO lawyers.

The exemption has also been applied to email attachments that include the Request for Legal Advice made by Enforcement to OFWO lawyers, to documents linked in footnotes to the Request for Legal Advice, and to documents provided to assist with the provision of the legal advice.

I am satisfied that these documents were created for the dominant purpose of providing legal advice in the context of enforcement actions undertaken by the OFWO, and that any claim for legal professional privilege that exists over the documents has not been waived.

Section 47E – Public interest conditional exemptions - certain operations of agencies

Section 47E(d) of the FOI Act conditionally exempts a document if disclosure would, or could, reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of agency operations.

The documents contain communication between OFWO staff about an issue of non-compliance with the *Fair Work Act 2009* in relation to the correct calculations of pay rates.

The material is exempt on the basis that it is important for the efficient and effective operations of the OFWO to be able to conduct internal discussions about the conduct of investigations into compliance with the *Fair Work Act* in confidence. Releasing information of this nature could enable businesses to knowingly act outside the law and hinder or limit the ability of the OFWO to carry out its legislative mandate to investigate allegations of non-compliance and, as a result, the proper and efficient conduct of the agency.

“Would or could reasonably be expected to”

Paragraph 5.15 of the FOI Guidelines provides that, there must, based on reasonable grounds, be at least a real, significant or material possibility in order to satisfy the test for ‘would or could reasonably be expected to’. I consider the risk of adverse effect to be not insignificant and more than a mere possibility.

Section 47E(d)

I have determined that the likelihood of damage that would arise to the OFWO’s ability to effectively and efficiently carry out its legislative mandate as described in the *Fair Work Act 2009* outweighs any benefit that would attach to the release of these documents. The expectation of confidentiality that attaches to the OFWOs investigative and compliance processes is central to maintaining the trust of employers and employees during the discussions that take place during a compliance investigation. Accordingly, I have decided that the release of documents conditionally exempt in full under s 47E(d) of the FOI Act would be contrary to the public interest.

Section 47F – Personal privacy

Section 47F(1) of the FOI Act provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person. Personal

information under the FOI Act has the same meaning as outlined in the *Privacy Act 1988*; that is information or an opinion about an identifiable individual, or an individual who is reasonably identifiable.

In order for the personal privacy exemption to apply I must be satisfied that:

- a) disclosure would constitute the unreasonable disclosure of personal information; and
- b) access to the relevant information would be contrary to public interest.

Unreasonable disclosure

Whether a disclosure is 'unreasonable' requires a consideration of all the circumstances, including the nature of the relevant information, the circumstances in which the information was obtained, the likelihood that the person concerned would not wish to have the information disclosed without consent and whether the information has any current relevance.

In considering whether disclosure would be unreasonable, s 47F(2) of the FOI Act requires me to take into account:

- the extent to which the information is well known
- whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document
- the availability of the information from publicly accessible sources, and
- any other matter I consider relevant.

Other key factors for determining whether disclosure is unreasonable include whether:

- the author of the document is identifiable
- the documents contain third party personal information
- release of the documents may cause stress on the third party, and
- any public purpose would be achieved through release.

All the parts of relevant documents over which the s 47F exemption is claimed contain information about a readily identifiable individual so the information is clearly personal within the meaning of s 47F.

The information was provided to the OFWO only for the purpose of investigating a complaint and on the clear understanding that it would remain confidential. That individual to whom the documents relate did not provide consent to the OFWO to release the information. I am also not aware of any evidence suggesting that the information is available from publicly accessible sources.

In these circumstances I have formed the view that release of the documents could cause the relevant individual some stress and there is no public purpose likely to be achieved in releasing the information. I have therefore determined that disclosure of the relevant personal information would be unreasonable in this instance, and that the documents are conditionally exempt from release under section 47F.

Public interest test

Where documents are found to be exempt under this section s11A(5) of the FOI Act requires that access be granted to the personal information unless access would, on balance, be contrary to the public interest.

I have concluded that it would not be in the public interest to disclose the conditionally exempt material. Whilst disclosure of the personal information would promote transparency, the relevant factors against disclosure of the material are more significant and include:

- the OFWO has a legislative obligation and public duty when dealing with an individual's personal information to take all reasonable measures to ensure that information is lawfully shared
- disclosure of the personal information is likely to prejudice the affected individuals' rights to privacy in circumstances where the appropriate consent for disclosure has not been given
- the OFWO relies on workers coming forward to make complaints in relation to potential or actual breaches of Australian workplace laws, and on businesses openly responding to allegations made against them. If those individuals and businesses were to form the view that the OFWO did not protect their communications from public disclosure, it is likely to discourage their cooperation with OFWO investigations
- any reduction in cooperation likely to result from the public release of information provided on the understanding of confidentiality could hinder or limit the ability of the OFWO to investigate allegations of non-compliance and take appropriate action to remedy breaches, and
- wider distribution of the personal information cannot be controlled given the fact that the FOI Act does not control or restrict any subsequent use or dissemination of information released under FOI.

Section 47G – Public interest conditional exemption – Business information

This exemption applies where the release of the material would, or could, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

The FOI Act provides that access cannot be refused solely because the documents contain business information. For the exemption to apply the OFWO must determine that release would be contrary to the public interest. The FOI Act also provides factors the OFWO must consider when deciding whether release would be contrary to the public interest. They include

- a) the extent to which the information is well known
- b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document
- c) the availability of the information from publicly accessible sources, and
- d) any other matters that the agency or Minister considers relevant.

When deciding whether disclosing a document is against the public interest, an agency must weigh up factors favouring access and those favouring non-disclosure.

The FOI Act also sets out what factors an agency cannot take into account. Those factors include embarrassment to or loss of confidence in the government, misunderstanding, confusion or unnecessary debate.

This exemption has been applied to documents containing the business affairs information of **[BUSINESS NAME]**. The OFWO undertook consultation with the organisation as required under section 27(4) of the FOI Act and has accepted the organisation's advice that disclosure of the documents would unreasonably expose the entity to adverse effects in this instance.

Public interest test

Section 11A(5) of the FOI Act requires the agency to give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest. In working out whether access to the document would, on balance, be contrary to the public interest the OFWO must have regard to the factors favouring

release and factors which are irrelevant as listed at section 11B of the FOI Act, and the FOI Guidelines issued by the Information Commissioner.

Factors favouring access to the document in the public interest include whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A)
- (b) inform debate on a matter of public importance
- (c) promote effective oversight of public expenditure
- (d) allow a person to access his or her own personal information.

Irrelevant factors which must not be taken into account when deciding on access include whether:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government
- (b) access to the document could result in any person misinterpreting or misunderstanding the document
- (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made
- (d) access to the document could result in confusion or unnecessary debate.

Factors favouring access include the promotion of the objects of the FOI Act such as informing debate on a matter of public importance and enhancing scrutiny of government decision making.

Disclosure of the communications in full would promote the objects of the FOI Act, however the public interest factors against disclosure of the particular business information include the need to afford appropriate protection to the lawful business and commercial affairs of third parties in their dealings with the OFWO. Release of the information would not inform public debate on the issues relating to your request for assistance with the OFWO.

I find that the public interest factors against disclosure of the conditionally exempt business information outweigh the factors in support of disclosure. I have therefore determined that it would be contrary to the public interest to give you access to the information marked in the document as conditionally exempt under section 47G of the FOI Act.

Access to the documents

An affected third party is entitled to seek review of my decision to release the edited documents to you. As a result, I am unable to give you access to the edited documents for at least 30 days from the day I notify them of my decision.

In accordance with section 27(7) of the FOI Act, the documents will be released to you after the opportunities the third party has to seek review of the decision have run out, and the decision still stands or is confirmed.

OR

The documents are being released to you with the decision

Website Publication

Subject to certain exceptions, section 11C of the FOI Act requires agencies to publish any information released in response to FOI requests on the online Disclosure Log. Section 11C contains some exceptions to this general requirement. These exceptions include when the document contains business or personal information that it would be unreasonable to publish.

As the documents are exempt in full I do not propose to release any material via the Fair Work Ombudsman's Disclosure Log.

As the documents contain the personal and business information I do not propose to release any material via the Fair Work Ombudsman's Disclosure Log.

Review rights

I have attached a document setting out your rights of review of this decision at **Attachment B**.

Contact details

For further information, please email foi@fwo.gov.au.

Yours sincerely

s.22 Irrelevant Information

Assistant Director Information Governance

Fair Work Ombudsman

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Attachment B

INFORMATION ON RIGHTS OF REVIEW & COMPLAINTS

Rights of review

If you are dissatisfied with this decision, you can apply for internal review by this agency (Option 1 below) or external review by the Australian Information Commissioner (IC Review) (Option 2 below).

You do not have to apply for internal review before seeking IC review. However, the Information Commissioner has expressed the view that it is preferable for a person to seek internal review by the agency before applying for IC Review. If you choose Option 1 (internal review), you can also apply for IC review of the internal review decision within 60 days after receiving notice of our review decision.

Option 1 – Internal review

You can seek internal review of the decision. An application for internal review must be made in writing within 30 days after the date you were notified of the decision, or within such further period as the Fair Work Ombudsman allows. The internal review will be conducted by a senior officer who had no involvement in the initial decision.

There is no particular form required to make a request for internal review. However, it would help the reviewer if you said, in writing, why you think the decision should be reviewed. An application for an internal review of the decision should be sent to:

Email: foi@fwo.gov.au

FOI Manager

GPO Box 9887

MELBOURNE VIC 3001

Option 2 – Review by the Australian Information Commissioner

Alternatively, you can apply to the Australian Information Commissioner for IC review of the decision.

An application for IC Review must be made within 30 days after the day you were given notice of this decision and the decision relates to an access grant decision (s 54M(2)(a))¹ or 60 days where the decision relates to an 'access refusal decision' (s 54L(s)(a)):²

In making your application, you need to provide an address for notices to be sent (this can be an email address) and a copy of this decision. It would also help the Australian Information Commissioner if you set out the reasons for seeking IC review in your application.

To apply for IC review, you can file your application via the [Information Commissioner review application form](#).

Complaints

You can complain to the Australian Information Commissioner about action taken by the Fair Work Ombudsman in relation to your freedom of information request. Your complaint must be in writing and it is the Information Commissioner's preference that an online complaint form is completed. You can lodge your complaint via the OAIC's [FOI complaint form](#).

¹ An "access grant decision" is defined in s 53B of the FOI Act to mean a decision to grant access to a document where there is a requirement to consult with a third party under ss 26A, 27 or 27A.

² An "access refusal decision" is defined in s 53A of the FOI Act and Part 10 of the FOI Guidelines at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>

GPO Box 9887
Melbourne VIC 3001

[DATE]

[NAME]

By email: XXXXXXXXX

Reference number: IA-XXXX

Notice of Decision – Freedom of Information request

Dear [NAME]

I refer to a request submitted to the office of the Fair Work Ombudsman (OFWO) on [DATE] under the *Freedom of Information Act 1982* (FOI Act) for documents requested by [APPLICANT – if consented to name release].

This letter sets out my decision in relation to the documents relevant to the request which I am authorised to make under section 23 of the FOI Act.

Matters taken into account in making this decision on access

In making my decision, I took the following matters into account:

- The scope of the request
- The documents
- The FOI Act
- The Australian Information Commissioner's FOI Guidelines
- Internal consultation
- Consultation with relevant third parties

DECISION

I have determined that the documents include conditionally exempt material under section ? and ? of the FOI Act.

The relevant documents are outlined in the schedule at Attachment A to this letter. Attachment A contains my decision in relation to each document. The schedule lists references to exemptions relied upon under the FOI Act. Detailed reasons for my decision follow.

Exemptions considered and reasons for decision

Section 42 - Documents subject to legal professional privilege

This section provides that a document is an exempt document if it would be privileged from production in legal proceedings on the ground of legal professional privilege, and if any person entitled to claim to legal professional privilege has not waived that claim.

For the purpose of the privilege, 'advice' extends to professional advice as to what a party should prudently or sensibly do in the relevant legal context.

At common law, determining whether a communication is privileged requires a consideration of:

- whether there is a legal adviser-client relationship
- whether the communication was for the purpose of giving or receiving legal advice, or use in connection with actual or anticipated litigation
- whether the advice given is independent
- whether the advice given is confidential.

Documents to which this exemption has been applied include email correspondence between Enforcement Officers and OFWO lawyers.

The exemption has also been applied to email attachments that include the Request for Legal Advice made by Enforcement to OFWO lawyers, to documents linked in footnotes to the Request for Legal Advice, and to documents provided to assist with the provision of the legal advice.

I am satisfied that these documents were created for the dominant purpose of providing legal advice in the context of enforcement actions undertaken by the OFWO, and that any claim for legal professional privilege that exists over the documents has not been waived.

Section 47E – Public interest conditional exemptions - certain operations of agencies

Section 47E(d) of the FOI Act conditionally exempts a document if disclosure would, or could, reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of agency operations.

The documents contain communication between OFWO staff about an issue of non-compliance with the *Fair Work Act 2009* in relation to the correct calculations of pay rates.

The material is exempt on the basis that it is important for the efficient and effective operations of the FWO to be able to conduct internal discussions about the conduct of investigations into compliance with the *Fair Work Act* in confidence. Releasing information of this nature could enable businesses to knowingly act outside the law and hinder or limit the ability of the OFWO to carry out its legislative mandate to investigate allegations of non-compliance and, as a result, the proper and efficient conduct of the agency.

“Would or could reasonably be expected to”

Paragraph 5.15 of the FOI Guidelines provides that, there must, based on reasonable grounds, be at least a real, significant or material possibility in order to satisfy the test for 'would or could reasonably be expected to'. I consider the risk of adverse effect to be not insignificant and more than a mere possibility.

Section 47E(d)

I have determined that the likelihood of damage that would arise to the OFWO's ability to effectively and efficiently carry out its legislative mandate as described in the *Fair Work Act 2009* outweighs any benefit that would attach to the release of these documents. The expectation of confidentiality that attaches to the OFWOs investigative and compliance processes is central to maintaining the trust of employers and employees during the discussions that take place during a compliance investigation.

Accordingly, I have decided that the release of documents conditionally exempt in full under s 47E(d) of the FOI Act would be contrary to the public interest.

Section 47F – Public interest conditional exemption - Personal privacy

Section 47F(1) of the FOI Act provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person. Personal information under the FOI Act has the same meaning as outlined in the *Privacy Act 1988*; that is information or an opinion about an identifiable individual, or an individual who is reasonably identifiable.

In order for the personal privacy exemption to apply I must be satisfied that:

- a) disclosure would constitute the unreasonable disclosure of personal information; and
- b) access to the relevant information would be contrary to public interest.

The information provided in your response was insufficient to demonstrate how the release of the information would involve an unreasonable disclosure of you or your client's personal information. The personal information has been redacted under section 22 and as such I am not satisfied that the requirements of section 47F are met.

Section 47G – Public interest conditional exemption – Business information

This exemption would apply where the release of the material would, or could, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

The FOI Act provides that access cannot be refused solely because the documents contain business information. For the exemption to apply the OFWO must determine that release would unreasonably affect you adversely in respect of your lawful business affairs.

The OFWO undertook consultation with you as required under section 27(4) of the FOI Act and has taken into consideration your submissions.

The information you provided in your consultation response does not provide enough information to show that the release of the information will adversely affect you in respect of your lawful business affairs. The documents demonstrate how the OFWO conducted the investigation and came to the determination in this investigation. I am not satisfied that the requirements of section 47G are met, and therefore the documents should be released to the applicant.

Access to the documents

I confirm that I have not provided the FOI applicant with access to the attached edited documents as you are entitled under the FOI Act to seek review of my decision to release documents that contain your information. I will not release the edited documents to the applicant until your review rights as an affected third party have expired, which is at least 30 days from the date of this letter.

The documents attached are the documents on which you were consulted.

Website Publication

Subject to certain exceptions, section 11C of the FOI Act requires agencies to publish any information released in response to freedom of information requests on the online Disclosure Log. Section 11C

contains some exceptions to this general requirement. These exceptions include when the document contains business or personal information that it would be unreasonable to publish.

As the documents contain both personal and business information I do not propose to release any material via the Fair Work Ombudsman's Disclosure Log.

Review rights

I have attached a document setting out your rights of review of this decision at **Attachment B**.

Contact details

For further information, please email foi@fwo.gov.au.

Yours sincerely

s.22 Irrelevant Information

Assistant Director Information Governance

Fair Work Ombudsman

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Attachment B**INFORMATION ON RIGHTS OF REVIEW & COMPLAINTS****Rights of review**

If you are dissatisfied with this decision, you can apply for internal review by this agency (Option 1 below) or external review by the Australian Information Commissioner (IC Review) (Option 2 below).

You do not have to apply for internal review before seeking IC review. However, the Information Commissioner has expressed the view that it is preferable for a person to seek internal review by the agency before applying for IC Review. If you choose Option 1 (internal review), you can also apply for IC review of the internal review decision within 60 days after receiving notice of our review decision.

Option 1 – Internal review

You can seek internal review of the decision. An application for internal review must be made in writing within 30 days after the date you were notified of the decision, or within such further period as the Fair Work Ombudsman allows. The internal review will be conducted by a senior officer who had no involvement in the initial decision.

There is no particular form required to make a request for internal review. However, it would help the reviewer if you said, in writing, why you think the decision should be reviewed. An application for an internal review of the decision should be sent to:

Email: foi@fwo.gov.au

FOI Manager

GPO Box 9887

MELBOURNE VIC 3001

Option 2 – Review by the Australian Information Commissioner

Alternatively, you can apply to the Australian Information Commissioner for IC review of the decision.

An application for IC Review must be made within 30 days after the day you were given notice of this decision and the decision relates to an access grant decision (s 54M(2)(a))¹ or 60 days where the decision relates to an 'access refusal decision' (s 54L(s)(a)):²

In making your application, you need to provide an address for notices to be sent (this can be an email address) and a copy of this decision. It would also help the Australian Information Commissioner if you set out the reasons for seeking IC review in your application.

To apply for IC review, you can file your application via the [Information Commissioner review application form](#).

Complaints

You can complain to the Australian Information Commissioner about action taken by the Fair Work Ombudsman in relation to your freedom of information request. Your complaint must be in writing and it is the Information Commissioner's preference that an online complaint form is completed. You can lodge your complaint via the OAIC's [FOI complaint form](#).

¹ An "access grant decision" is defined in s 53B of the FOI Act to mean a decision to grant access to a document where there is a requirement to consult with a third party under ss 26A, 27 or 27A.

² An "access refusal decision" is defined in s 53A of the FOI Act and Part 10 of the FOI Guidelines at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>

Freedom of Information Processing Guide

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Overview of FOI Processing

This chapter gives an overview of the FWO's statutory obligations to process FOI requests and outlines the administrative processes involved.

The Freedom of Information Act 1982 (FOI Act) provides a public right of access to documents held by Australian government agencies.

As an Australian government agency, the FWO is required to:

- provide access to documents requested under the FOI Act (subject to exemptions)
- publish certain agency information on our website as part of the Information Publication Scheme
- publish certain documents released under the FOI Act on our Disclosure Log.

FWO is committed to providing efficient and timely access to information and documents. The Information Governance team supports the FWO by managing those requests according to the FWO's Managing Information Access Requests policy framework, and providing access to information held in documentary form.

The FWO is committed to administering the Freedom of Information Act 1982 in a manner that provides access in accordance with the objects of the Act, assures compliance with the Act, and with regard to the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC).

Request processing timeframes

The FOI Act imposes strict timeframes for the processing of requests. In particular, section 5(a) provides that applicants must be notified of decisions on access as soon as practicable but not later than 30 days after the day on which the request is received by the agency. Section 54C(3) provides that applicants must be notified of decisions on internal review of access refusal decisions as soon as practicable but not later than 30 days after the day on which the request is received by the agency. Extensions of time are available under the Act in specific circumstances.

To meet its commitment to compliance with the 30 day statutory timeframe for decisions, FWO has operationalised the requirements of the Act to enable processing to be completed so decisions on access can be provided to applicants within the statutory timeframe.

FOI request types

The FWO receives FOI requests from a range of applicants. For the purposes of process and risk management they can be categorised as follows:

- **Complex requests** – for example, requests from Journalists, employee representative bodies, individuals seeking policy-related information, requests from solicitors regarding class actions, FWO investigation matters that are before Courts, requests sent to senior executives, requests involving Assurance and Risk matters.
- **Personal/Non-complex requests** – for example, requests from individuals seeking documents that principally involve their own information and may include some additional third party information.
- **Internal Review requests** – can be from any previous FOI applicant.

This list of examples is not exhaustive, and each request must be risk-assessed on a case-by-case basis.

Other FOI-related matters include Information Commissioner reviews and Information Commissioner complaints.

Requests that can be categorised as “topical”, Internal Review requests, Information Commissioner reviews and Information Commissioner complaint matters should be referred to the Assistant Director and Director immediately for information and approval of all administrative actions.

Who can make an FOI request – releasing information to third party applicants

The OAIC Guidelines state that:

Any person has the right to apply for access to a document of an agency or an official document of a minister (s 11(1)). An applicant does not have to reside in Australia or be an Australian citizen. The term 'person' also includes a body politic or body corporate, such as a company.

Most FOI requests made to FWO are from parties to a workplace complaint or dispute or customers who have made enquiries to the Fair Work Infoline. An FOI request can also be made by one person on behalf of another, such as a lawyer acting on behalf of their client.

Where FOI requests are received from one party on behalf of another, FWO has a duty to manage the personal information of applicants and third parties in a manner consistent with the Privacy Act 1988.

Possible release of material under section 718(2) of the Fair Work Act

The Fair Work Ombudsman’s Information Access policy framework provides for the release of information outside the FOI Act in certain circumstances. Processing and releasing documents under the Information Access policy is less resource intensive for FWO, and provides a fast and less formal way of providing access to information.

InfoGov officers should consider whether the requested documents contain material that can be released under the FWO’s [Managing Information Access Requests \(Individuals and Non-government entities\) policy and Managing Information Access Requests \(Government Entities\)](#). Information that can

be

- In all instances where an FOI request is received from one party on behalf of another, the person making the request must provide their client’s written authorisation for the release of their person information.
- Where authority to release information is not provided, the provisions of section 47F relating to the release of personal information will apply, and the InfoGov officer will be required to determine whether release would be unreasonable in the circumstances and whether consultation under the FOI Act will be required.

released under the Information Access policy includes, but is not limited to:

- call information from FWO’s Infoline relating to the applicant (including call summaries and recordings)
- documents containing the applicant’s personal information (e.g. request for assistance forms and supporting documents)
- evidence relating to the applicant’s request for assistance (e.g. time sheets, pay slips, emails, diary records, statutory declaration or formal statements)

- letters written by FWO staff to other parties about the issues in dispute
- notes taken by FWO staff during conversations with the applicant (other than notes made during mediation)
- tribunal, court decisions or authorities relied on when making a decision.

Information Access requests may be processed in their entirety or under s.718(2) of the FWA. Similarly, some documents provided in response to an FOI search may be suitable for release under s.718(2) of the FWA. Those documents can be separated from the material returned from search and prepared for release under s.718(2) of the FWA, with processing of the remainder of the material to continue under FOI.

Request processing stages

When a decision is made to process a request under the Information Access policy, the InfoGov officer must contact the applicant explain that:
 the documents they have requested can be provided to them outside the FOI Act
 the request can be handled under the FWO's Information Access policy
 seek the applicant's consent to proceed with the release outside the FOI Act.

Where material is identified as suitable for release under s.718(2), the InfoGov officer must provide the documents proposed for release to the appropriate EL1 or EL2 delegate to approve release under section 718(2) of the Fair Work Act.

Final document packages proposed for release must then be provided to the Assistant Director, InfoGov, for review and noting prior to release to the applicant.

When an applicant consents to processing of their entire request outside the FOI Act, the email releasing documents must advise them that their FOI request has been taken to have been withdrawn by the FWO.

The FOI Act does not prescribe how FOI requests are to be processed. The FWO has divided FOI processing into several distinct stages, each with an indicative timeframe. Each processing stage reflects the statutory requirements of the FOI Act, and the timeframes providing a structure for completion of administrative processes required to finalise requests within the 30 day statutory timeframe.

Processing of Requests

Time frames - Overview

Processing timeline - general

1. Receipt and pre-assessment – 2 days
2. Section 5(b) requires the FWO to acknowledge receipt of a request as soon as practicable but not later than 14 days after the day on which the request is received.
3. Search and retrieval – 5 days
4. Assessment – 5 days
5. Noting – 10 days for complex requests
6. Release

Processing timeline – personal requests

1. Receipt and pre-assessment – 2 days
2. Search and retrieval – 5 days
3. Assessment – 8 days
4. Noting – 5 days for complex requests
5. Release

Processing timeline – complex requests

1. Receipt and pre-assessment – 2 days
2. Search and retrieval – 5 days
3. Assessment – 8 days
4. Noting – 10 days for complex requests
5. Release

Processing timeline – Internal reviews

1. Receipt and pre-assessment – 2 days
2. Search and retrieval – 5 days
3. Assessment – 8 days
4. Noting – 10 days for complex requests
5. Release

Time frames – Processing Tables

Table 1: Processing stages and possible events for a complex FOI request

	Receipt/pre-assessment	Search and retrieval	Assessment	Noting	Release
Indicative time	2 days	5 days	5-8 days	10 days	Decision due date
Possible events	Acknowledge request	Search memos sent to business units	Documents reviewed and compiled for assessment	Draft decision provided to relevant business unit/s for comment	Decision and documents released to applicant
	Assist applicant with request validity if required	Documents returned from search	Documents assessed for exempt material	Consult with Legal Branch and AGS on draft decision if required	Documents released under s.718 FWA
	Advise relevant EL and SES officers of request	Documents compiled for assessment	Consulting with FWO business units on FWO business context and document content	Draft decision provided to Director, InfoGov for review, comment and noting.	Can be via email or via secure file transfer
	Preliminary enquiries on document holdings	Document schedule drawn	Consulting with third party individuals under s. 27A(1) re s47F exemption*		Close request in all FOI admin records and systems
	Consulting with business units on scope		Consulting with third party businesses under s27(1) re s47G exemption*		
	Scoping/Rescoping with applicant if required		Consultation with FWO business unit on possible release of material under s.718(2) FWA		
	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking

* NOTE: These events enliven provisions for a 30 day extension to the statutory processing time.

Table 2: Processing stages and events for a personal/non-complex FOI request

	Receipt/pre-assessment	Search and retrieval	Assessment	Noting	Release
Indicative time	2 days	5 days	5-10 days	5 days	Decision due date
Possible events	Acknowledge request	Search memos sent to business units	Documents reviewed and compiled for assessment	Draft decision provided to relevant business unit/s for comment	Decision on access and documents released to applicant
	Assist applicant with request validity if required	Documents returned from search	Documents assessed for exempt material	Draft decision provided to Director, InfoGov for review, comment and noting if required	Documents released under s.718 FWA
	Scoping/Rescoping with applicant if required	Documents compiled for assessment	Consulting with FWO business units on FWO business context and document content if required		Can be via email or via secure file transfer
	Preliminary enquiries on document holdings	Document schedule drawn	Consultation with FWO business unit on possible release of material under s.718(2) FWA		Close request in all FOI admin records and systems
	Consulting with business units on scope		Consulting with third party individuals under s. 27A(1) re s47F exemption if required*		
			Consulting with third party businesses under s27(1) re s47G exemption if required*		
		FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking
	FOI admin and matter tracking				

* NOTE: These events enliven provisions for a 30 day extension to the statutory processing time.

Table 3: Processing stages and events for an Internal Review

	Receipt	Search and retrieval	Assessment	Noting	Release
Indicative time	1 day	5 days if required	15-20 days	5 days	Decision due date
Possible events	Acknowledge review request	Additional search memos sent to business units if required**	Documents reviewed and compiled for assessment if required	Draft decision provided to relevant business unit/s for comment if required	Decision on access and documents released to applicant
	Identify EL officer to conduct Internal Review	Documents compiled for assessment if required**	Documents assessed for exempt material	Draft decision provided to Director, InfoGov for information	Documents released under s.718 FWA
	Documents and original decision provided to internal reviewer for consideration	Document schedule drawn**	Consulting with FWO business units on FWO business context and document content if required	Consultation with FWO business unit on possible release of material under s.718 FWA if required	Can be via email or via secure file transfer
	Advice provided to internal reviewer on timeframes for decision		Consulting with third party individuals under s. 27A(1) re s47F exemption if required*	Consult with Legal Branch and AGS on draft decision if required	Close request in all FOI admin records and systems
			Consulting with third party businesses under s27(1) re s47G exemption if required*		
	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking

* NOTE: These events enliven provisions for a 30 day extension to the statutory processing time.

**NOTE: These events are to be facilitated by Information Governance team to support the Internal Review

Table 4: Processing stages and events for an Information Commissioner Review

	Receipt/pre-assessment	Prepare submissions	Assist OAIC		Release
Indicative time	1 day	5 days	By OAIC due date		On receipt of OAIC decision
Possible events	Acknowledge review notice	Prepare submissions	Provide OAIC with documents and original decision		Prepare any documents for release in line with OAIC review decision
	Advise relevant execs of review.	Consult with Legal Branch and AGS on draft submissions if required			Release documents to applicant in line with OAIC review decision
					Can be via email or via secure file transfer
	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking

Table 5: Processing stages and events for an Information Commissioner complaint matter

	Receipt/pre-assessment	Prepare submissions	Assist OAIC		Release
Indicative time	1 day	5 days	By OAIC due date		On receipt of OAIC decision
Possible events	Acknowledge complaint notice	Prepare submissions	Provide OAIC with documents and original decision		Release documents to applicant in line with OAIC review decision
	Advise relevant execs of complaint.	Consult with Legal Branch and AGS on draft submissions if required			
		Finalise submissions			Can be via email or via secure file transfer
					Close request in all FOI admin records and systems
	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking	FOI admin and matter tracking

Consultation requirements for FOI processing – roles and responsibilities

The FOI process includes a range of internal and external stakeholders. As such, the FOI process is necessarily consultative and successful completion of FOI processing stakeholders within statutory timeframe requires stakeholders to undertake a range of responsibilities.

Applicant	Business units	External third parties	Legal Branch	Management	FOI unit
Responding to InfoGov requests for consultation on request wording and scope	Providing advice on request scope	Individuals – Providing views on possible release of personal information	Providing advice on application of LPP exemption	Review and comment on draft decisions	Liaison with applicant regarding request validity and scope
Provide consent to remove irrelevant information	Providing advice on extent of document holdings	Businesses – Providing views on possible release of business information	Liaising with AGS for review of draft decisions if required	Noting draft decisions for release	Coordinating document searches
Provide consent to requests for extensions of time to process	Providing documents in response to search requests	Agencies – Providing advice where documents in scope are created by external agencies		Supporting InfoGov team with matters requiring escalation	Coordinating sampling exercises where request scope may be an unreasonable diversion of resources
Provide consent to be identified as an FOI applicant for the purposes of third-party consultation	Providing advice on document content and context to assist assessment	Agencies – providing advice regarding request transfers			Reviewing and compiling documents returned from search
Responding to requests for rescoping where request is an unreasonable diversion of resources	Providing comment on draft decisions				Coordinating third party personal and business consultations
					Drafting correspondence
					OAIC quarterly and annual reporting
					FWO annual reporting

Processing steps requiring referral to senior officers for noting and approval

Scope confirmation on complex requests

Unreasonable diversion of resources

Access charges

Extensions of time

Access decisions (a matter of the legal delegation)

Internal review requests

Commissioner review notices

Protocol matters

All communication with FWO Executive and Senior Executive Officers MUST go through the Assistant Director and Director Information Governance.

Receipt and pre-assessment

Receipt and pre-assessment

Requests must be valid

Section 15(2) provides that an FOI request must

- (a) be in writing; and
- (aa) state that the request is an application for the purposes of this Act; and
- (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
- (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).

Agencies have a duty under s 15(3) to take reasonable steps to assist a person to make a request that complies with the formal requirements of the FOI Act. This duty applies both when a person wishes to make a request and when they have made a request that does not meet the formal requirements.

Requests that do not comply with the requirements of s 15 after a request consultation process can be refused.

The provisions of the FOI Act do not apply until a request complies with the requirements of s 15(2).

Invalid requests must be referred back to the applicant and any defects in the request rectified before processing commences.

Acknowledging requests

Section 5(b) requires agencies to acknowledge receipt of a request as soon as practicable but not later than 14 days after the day on which the request is received.

FOI officers will make a preliminary search of FWO records systems to identify relevant business units to search and gauge the extent of document holdings.

Where a request is valid and the request scope is clear, a receipt email must be sent and processing commenced.

Where the request scope is unclear, an email acknowledging receipt and seeking clarification of the request scope must be sent.

NB: The FOI 30-day clock does not stop during pre-assessment discussions with the applicant on scope. Early identification at this stage of requests that could be voluminous and constitute an unreasonable diversion of resources to process is vital.

Scope of request related to “complaints”

The FWO consider “complaints” to be where an enquiry to the FWO has been referred to a Request for Assistance. If an individual requests access to “complaints” clarification is to be sort from the individual that they agree to the FWO’s interpretation of “complaints”. Below is an example of the wording to use to explain the FWO’s interpretation.

I note that the scope of your request uses the word “complaint”. The FWO does not use the word “complaint” to refer to instances of contact made between the Australian public and the FWO.

We are therefore intending to interpret the word “complaint” to mean “Requests for assistance” (RfA).

I have outlined below more information which will assist you to understand the term “request for assistance”. Can you please confirm that you are in agreement with our interpretation. Please respond by cob on **XXX Month Year**. If you do not respond by this date we will take the scope of your request to be for RfAs.

Generally, an enquiry becomes a RfA when the following elements exist:

- the enquiry is within OFWO’s jurisdiction.
- allegations relating to a minimum entitlement within an applicable industrial instrument
- the customer has attempted to resolve the issue directly at the workplace level* and the issue remains unresolved.
- the customer is seeking OFWO involvement.
- the customer understands the OFWO will assess the allegations and decide what (if any) response the OFWO will take.
- any decision will be based on the evidence and information provided.
- the customer is willing to participate in the process and for the employer to be contacted.

The difference between an enquiry and a RfA

Most interactions with the OFWO begin as an enquiry. The moment an enquiry 'becomes' a RfA is when:

- an assessment has been made; and
- the enquiry is suitable for the RfA pathway; and
- the enquiry is referred internally

At the enquiry stage, a customer interaction will typically be handled by Customer Service Delivery, including provision of guidance to first resolve workplace problems within the workplace. When the enquiry becomes an RfA, it is referred to the Assessment Team for review.

There are key differences between what characterises a customer interaction as an enquiry, compared to a RfA. The table below summarises these key distinctions.

Enquiry	Request for Assistance
<ul style="list-style-type: none"> • Customer is seeking advice which is out of OFWO jurisdiction and enquiry can be referred externally • Customer is seeking technical advice only, and their enquiry can be answered by CSD (in conjunction with Senior Adviser/Coach/TLO if needed) without need for further OFWO intervention • Customer is seeking further assistance from the OFWO but has not attempted to resolve the issue at the workplace level and there are no circumstances /conditions preventing this attempt • Customer is seeking further assistance from the OFWO, but customer is unwilling to authenticate or unwilling to consent to RfA privacy questions • Customer does not consent to the employer contact • Customer is not ready for OFWO intervention • Customer is not available or prepared to provide ongoing assistance to the OFWO in relation to the enquiry 	<p>A party has information relating to allegations of non-compliance with a workplace law within OFWO jurisdiction and are:</p> <ul style="list-style-type: none"> • willing and ready to assist the OFWO by providing a statement • supported by the relevant legislations (i.e. Fair Work Act, industrial instrument) • unable to resolve at the workplace level or there are contributing factors to preventing this. • within our regulatory priorities These are not minimum referral requirements but are contributing referral factors • seeking an outcome that the OFWO's investigative process can deliver. For example - the OFWOs investigation cannot reinstate someone who believes they have been unfairly dismissed or make a judgement whether they are an employee vs a contractor) • Consenting to the OFWO contacting the business they are making allegations against and the OFWO privacy questions

Responding to requests on self-harm

Where a request involves information of possible self-harm or danger to one's safety, the FOI officer should report this immediately to the relevant team.

Report this to the information security team by submitting a SETIR form via FWO forms and advising the details of the incident. If the ASA (Agency Security adviser) requests for the matter to be reported to the police, please report to this to your relevant manager and update the SETIR form.

[More information](#) on how to handle threats of self harm can be found on our FWO intranet.

Transferring requests

Section 16 provides for the transfer of FOI requests between agencies and ministers.

An agency may partially or wholly transfer a request (s 16(3A)). When an agency receives a request for documents, some of which are in the possession of different agencies, the request is notionally divided into different requests. Each agency then has obligations to make their own response to the request in accordance with the Act.

A transferred request is deemed to have been received by the receiving agency at the time it was received by the transferring agency (s 16(5)(b)). As the receiving agency is not given extra time early consideration must be given to whether a request should be transferred.

The transferring agency must advise the applicant that the request has been transferred (s 16(4)). The notification should state when the request was transferred and why, and the name and contact details of the agency to whom the request was transferred.

All request transfers must be referred to the Director, Information Governance for approval and noting.

NB: The FOI 30-day clock does not stop during a request transfer.

The transfer notice should not imply that documents are held by the receiving agency, but should state that the subject matter of the request is more closely connected with the business of the receiving agency.

Substantial and reasonable diversion of resources requests

Section 24 provides for the power to refuse a request where the extent of document holdings is voluminous and the work involved in processing would constitute an unreasonable diversion of resources of the agency from its usual operations.

Sampling

Where necessary, InfoGov will liaise with relevant business units to discuss the scope of the request and coordinate a sampling exercise to determine the extent of document holdings and arrive at a decision as to whether processing a request would be an unreasonable diversion of the agency's resources. Sampling is an essential stage of the request consultation process. The information returned from the sampling

exercise is incorporated into the notice of intention to refuse to process, and can be used to provide information that would assist the applicant to revise the request.

Section 24AA(2) does not limit the matters to which an agency may have regard to when determining if a practical refusal reason exists, however agencies must have regard to the resources required for:

- (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
- (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
- (c) making a copy, or an edited copy, of the document;
- (d) notifying any interim or final decision on the request.

Section 24AB sets out the requirements for the request consultation process for the purposes of section 24.

The agency must:

- provide a written notice of intention to refuse to process the request (s 24AB(2))
- take reasonable steps to assist the applicant to revise the request so the reason for practical refusal is removed (s 24AB(3))

Reasonable steps includes:

- giving the applicant a reasonable opportunity to consult with the contact person (s 24AB(4)(a))
- providing the applicant with any information that would assist them to revise the request (s 24AB(4)(b))

The consultation period can be extended with the applicant's agreement (s 24AB(5)).

Before the end of the consultation period the applicant must either withdraw the request (s 24AB(6)(a)), make a revised request (s 24AB(6)(b)), or indicate they do not wish to revise the request. (s 24AB(6)(c)). The request is taken to be withdrawn if the applicant does not consult with the contact person (s 24AB(7)(a)) or does not do any of the things mentioned in s 24AB(6).

NB: The FOI 30-day clock stops during the request consultation process and restarts when a revised scope is confirmed. (s 24AB(8)).

Search and retrieval

Once a request scope is confirmed InfoGov sends a search and retrieval memo to the Assistant Director of the relevant business units and to the business unit mailbox (eg. foi@fwo.gov.au) for action.

All hard copy and electronic document storage locations should be searched for documents falling within the request scope and returned to InfoGov as .pdf files.

In instances where documents may have been created or held by former FWO staff members, InfoGov can arrange for forensic searches of document storage by Information Management and email accounts by IT.

The FOI Act is silent on what constitutes a reasonable search. The Information Commissioner's FOI Guidelines at [3.89] relevantly provide that agencies should undertake a reasonable search on a flexible and common sense interpretation of the terms of the request. What constitutes a reasonable search will depend on the circumstances of each request and will be influenced by the normal business practices in the agency's operating environment. At a minimum, an agency should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents
- the current and past file management systems and the practice of destruction or removal of documents
- the record management systems in place
- the individuals and line areas within an agency or minister's office who may be able to assist with the location of documents, and
- the age of the documents.
-

If an FOI applicant subsequently applies for Information Commissioner review (IC review) of an agency's decision to refuse access to documents, it is the agency who bears the onus of establishing that all reasonable steps have been taken to find a requested document before refusing access to it on the basis that it cannot be found or does not exist (s 55D of the FOI Act).

More information about agency responsibilities to search for documents is available from the [Information Commissioner's Guidelines](#).

Assessment

Documents should be assessed with regard to central principles that underpin the right to obtain access to documents held by government:

- subject to the FOI Act, every person has a legally enforceable right to obtain access to government documents (s 11(1))
- a person's reasons for seeking access to a document, or an agency belief about a person's reasons for seeking access, are not relevant factors when deciding on access (s 11(2))
- the functions and powers given by the FOI Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost (s 3(4))
- the Act does not limit any power to give access to information under other legislative or administrative arrangements (s 3A(2)).

Receiving FOI requests

The FWO has a dedicated FOI Inbox (foi@fwo.gov.au) for the receipt of applications and related correspondence. Requests may also be sent by post, fax or in person at any location of the FWO.

The FWO's Melbourne GPO Box is given on the FWO's website as the postal address to which requests should be sent. [Part 3](#) of the Australian Information Commissioner's Guidelines (**Guidelines**) states that a request made by email or fax must be sent to the FOI address or number specified by the agency, and that a request will not meet the requirements of the FOI Act if it is sent to another address or number (for example, the email address of an Inspector or Infoline Advisor). In most cases, we will treat these requests as valid for the purposes of the FOI Act and take a flexible approach to determining the date requests are

received. Where requests for access to documents have been received by other business units they may also be forwarded to FWO's dedicated FOI inbox for processing.

Members of the public can find information about how to submit an FOI request in found on www.fairwork.gov.au at [Accessing-our-information - making-a-freedom-of-information-foi-request](#).

Access charges

The FWO may impose access charges on applicants for the time taken to process requests and the costs associated with photocopying and posting documents.

Agencies cannot charge a person for access to their own personal information.

The FWO does not routinely charge applicants for access to documents.

Further information about charging for access to documents can be found in [Part 4 of the FOI Guidelines](#).

Disclosure Log

The FWO must publish information that has been released in response to every FOI request, subject to certain exceptions under section 11C of the FOI Act.

The disclosure log reinforces the objects of the FOI Act to promote proactive publication of information (s 3(1)(a)) and in recognition that information held by government is a national resource (s3(3)).

The requirement to publish on the disclosure log does not apply to:

- Personal information about any person, if it would be unreasonable to publish the information (s11C(1)(a))
- Information about the business, commercial, financial or professional affairs of any person, if publication of that information would be unreasonable (s11C(1)(b))
- Any information if it is not reasonably practicable to publish the information due to the extent of modifications that would need to be made to delete the information (s11C(1)(d)).

It is not required by agencies to publish the FOI decisions and statement of reasons.

When access is granted to some but not all of the requested documents

If an FOI applicant was given access to only some of the documents requested, the disclosure log requirement applies to the documents given to the applicant. If access was given later following internal or IC reviews, the disclosure log requirement will apply at that (later) time to the additional documents released.

When to publish on the disclosure log

The FWO must publish information on the disclosure log within 10 working days of the FOI applicant being given access to a document (s11C(6)).

It is open to an agency to publish information earlier than the period of 10 days. The FOI Act does not preclude same day publication.

Publishing on the disclosure log

To publish on the FWO's website (fairwork.gov.au), a FWO staff member must receive approval from the relevant EL 1 and above. They must submit a COWU form via FWO forms and provide the necessary information for publication.

The website address for the updates on the disclosure log is:

[Accessing our information - Fair Work Ombudsman](#)

The request should provide the following information to the FWO's web team:

- Website address
- Request for an additional row to be added to the disclosure log table
- Request no: IA-XXXX
- Date the decision was released
- Summary of the scope request
- Document type: the type of documents being released; emails, reports ..etc
- Supplementary information: Release in full/part and a paragraph below - All information released to the applicant has been made publicly available under section 11C
- Document - Attach the relevant documents with the naming convention IA-XXXX (PDF)

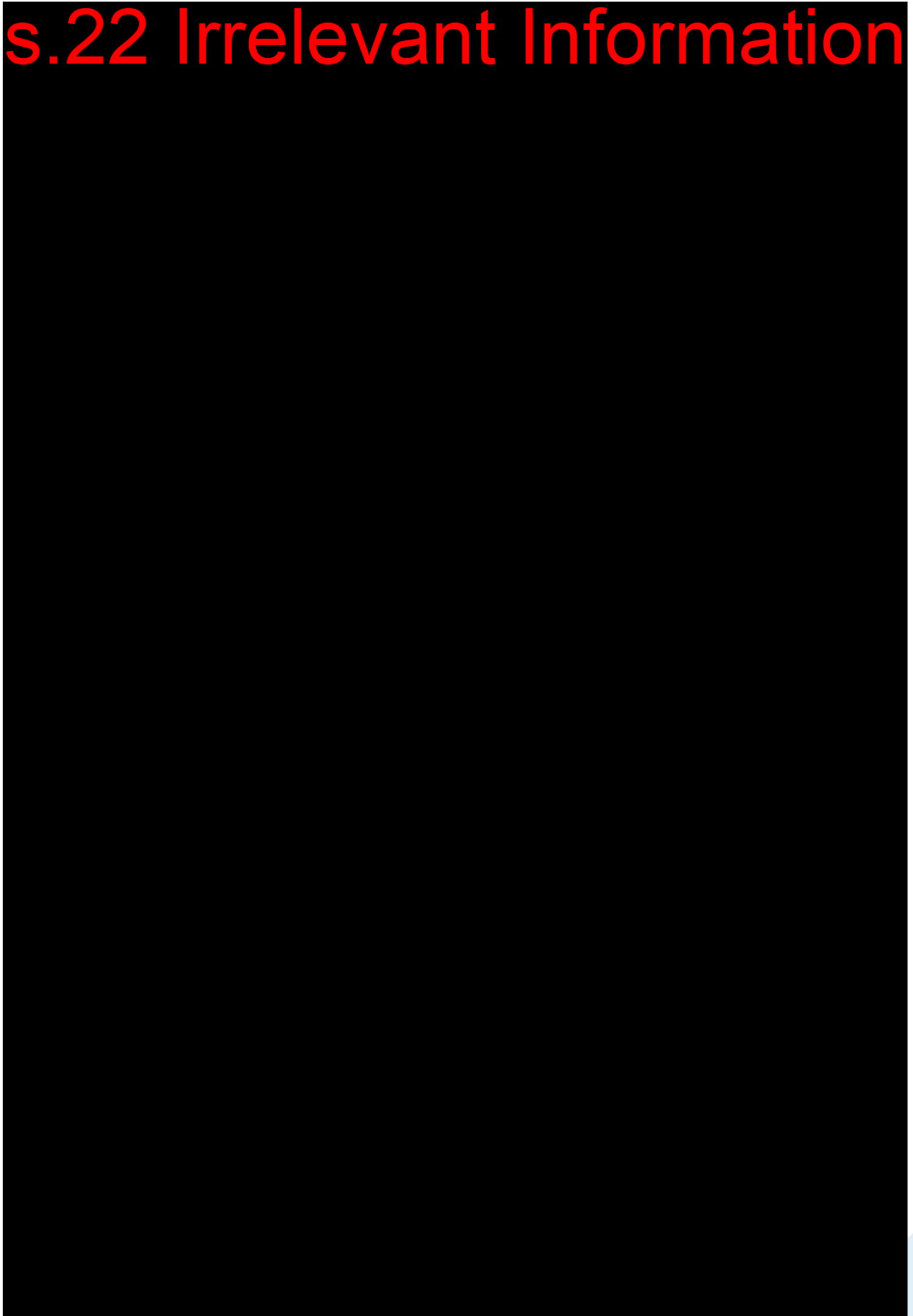
Choose the publication date

Attachments - attach all relevant documents (ensure documents are watermarked)

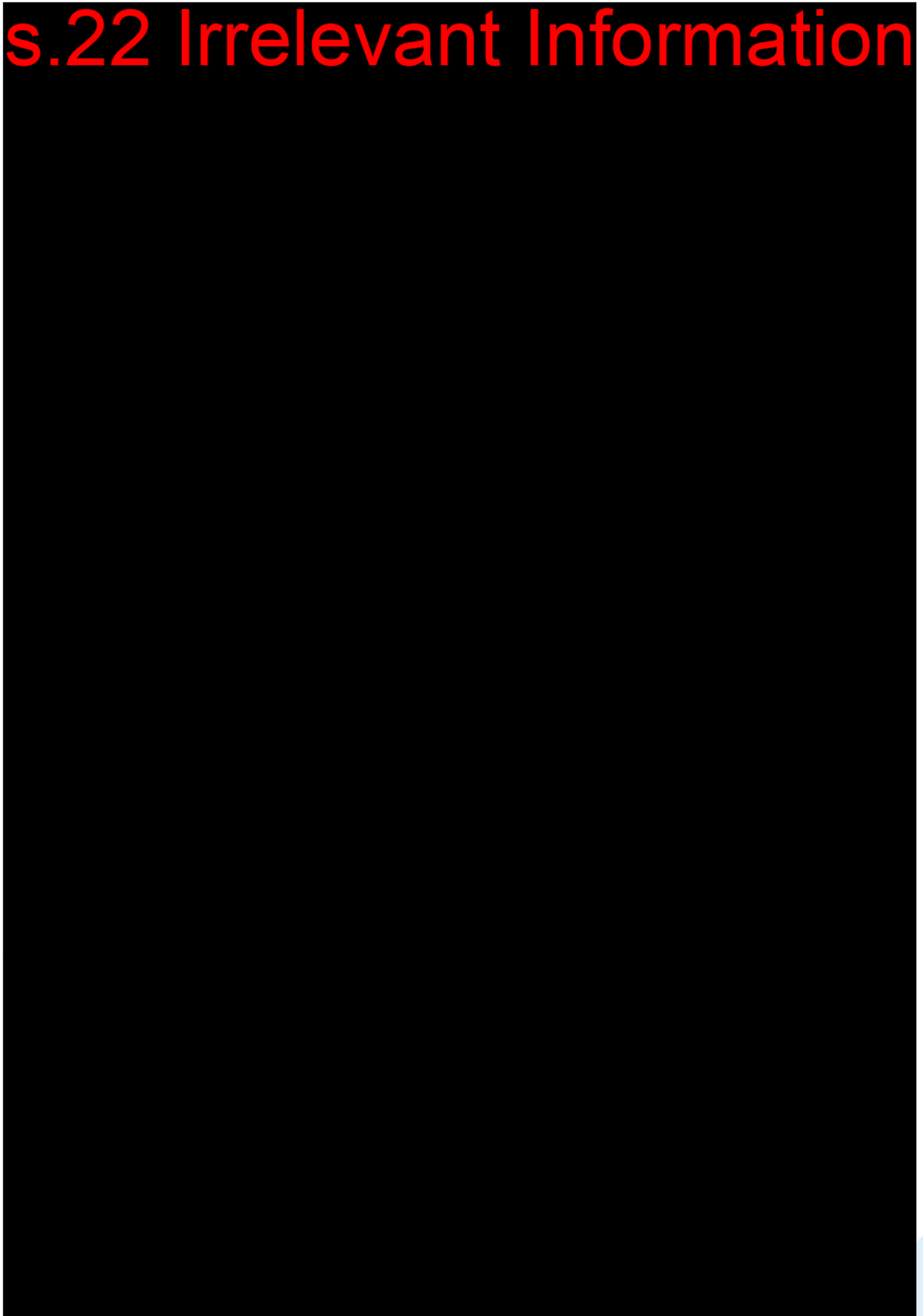
s.22 Irrelevant Information

Prior to 2020, FOI files were registered in the Customer Feedback and Information Access folders

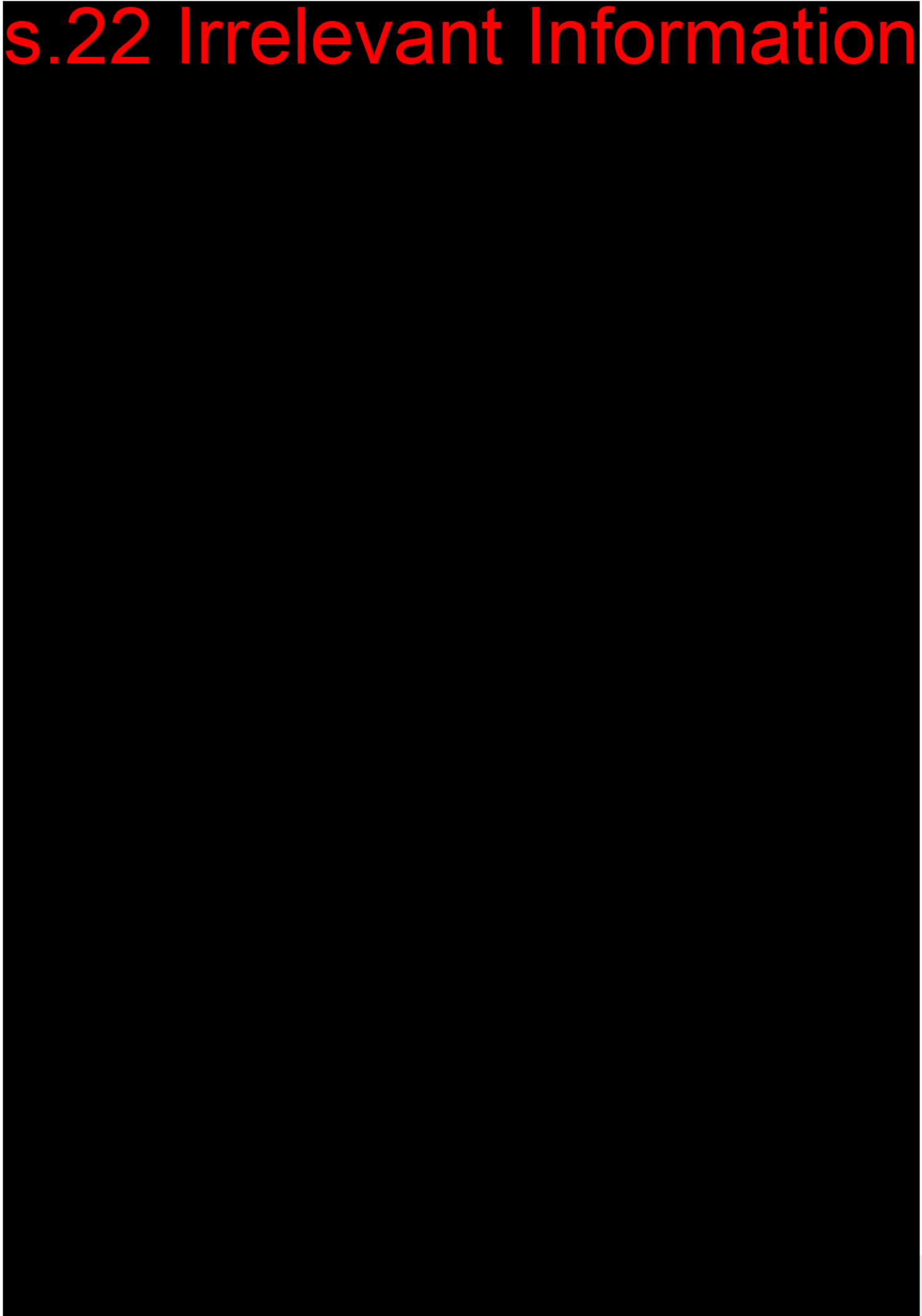
s.22 Irrelevant Information



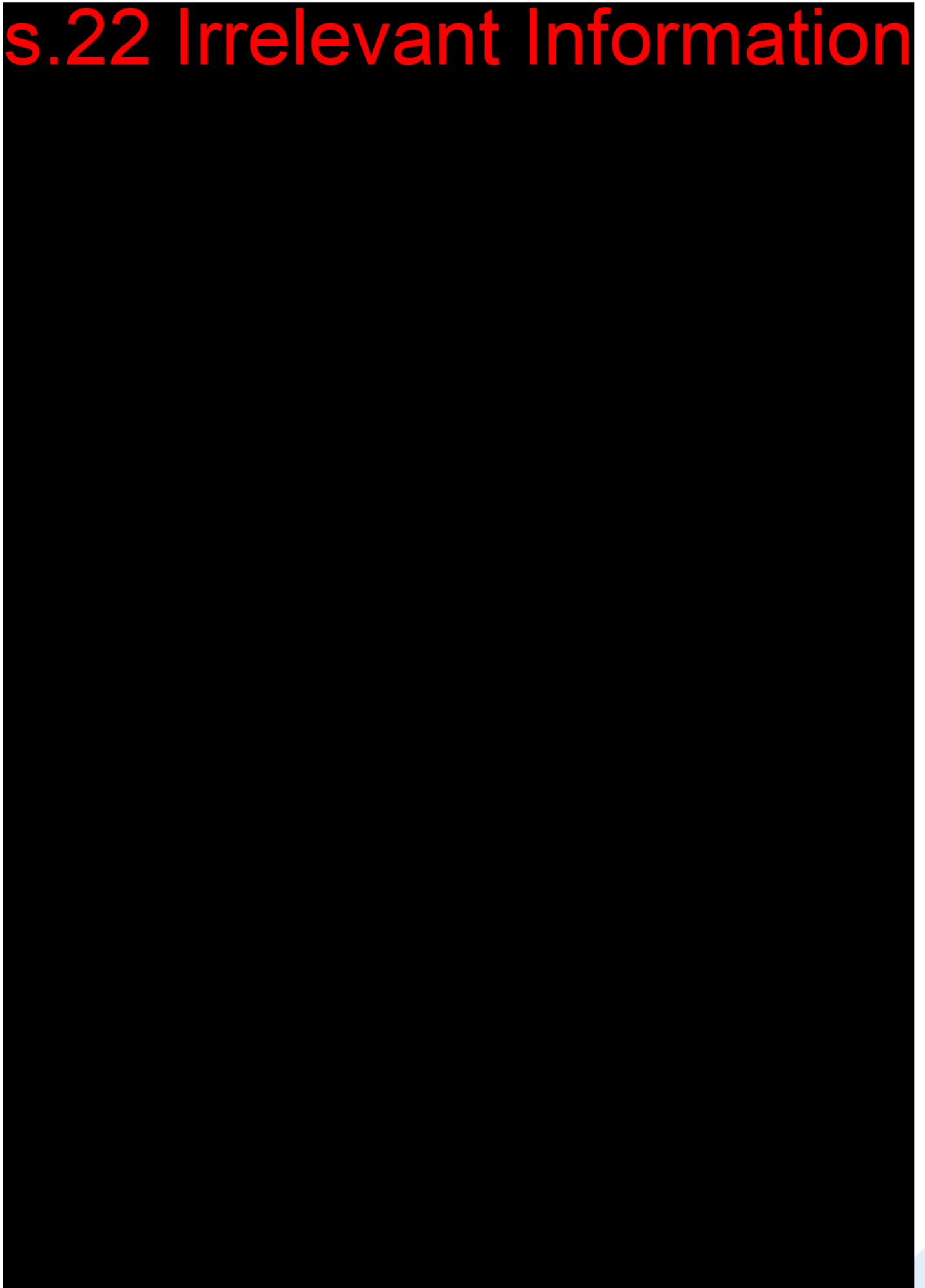
s.22 Irrelevant Information



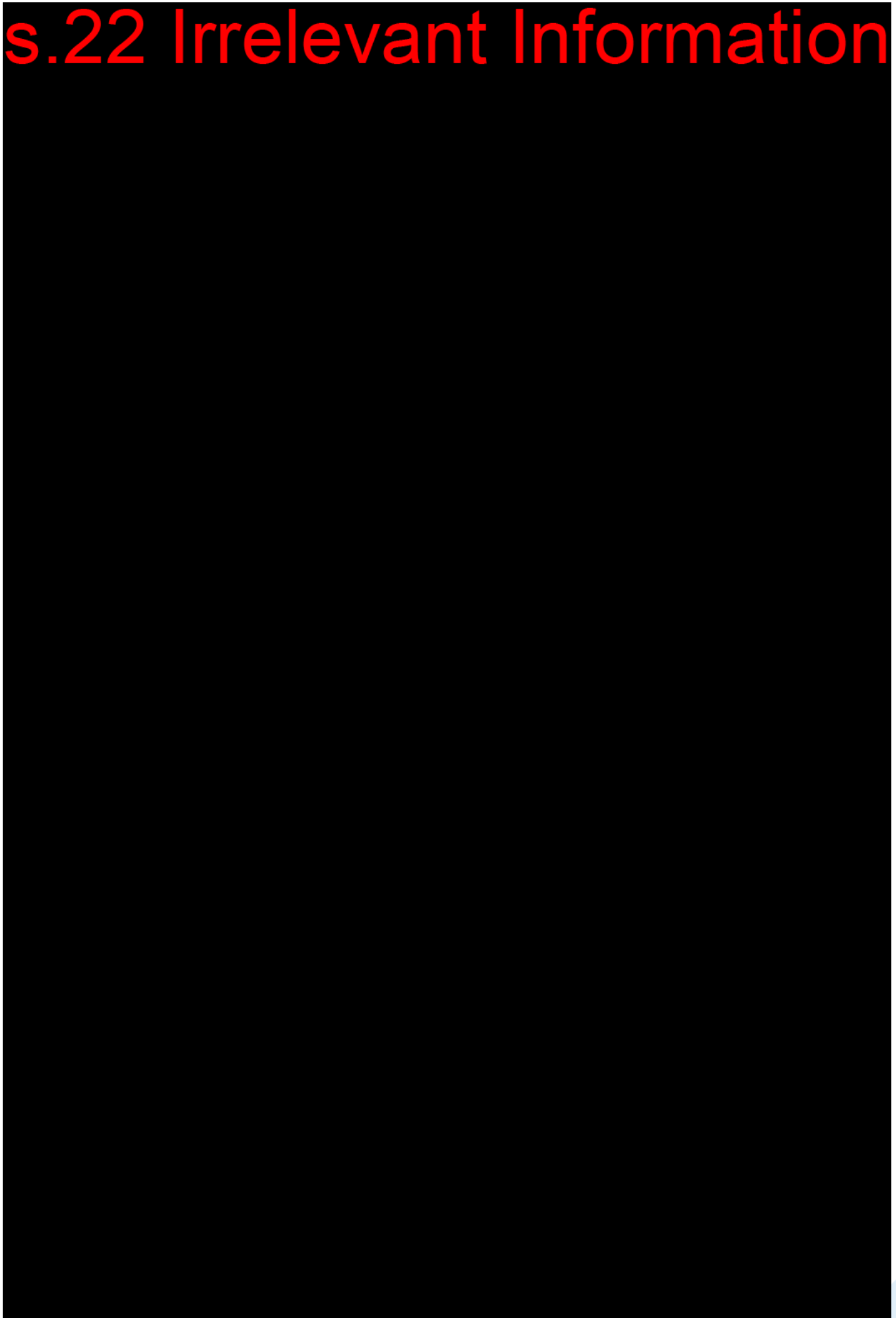
s.22 Irrelevant Information



s.22 Irrelevant Information



s.22 Irrelevant Information



s.22 Irrelevant Information

Adobe Acrobat Professional X

Adobe Acrobat Professional X (Adobe Pro) is used when processing FOI requests to number documents (apply folio numbers), delete parts of documents that are exempt under the FOI Act and remove material that is irrelevant to a request. Adobe Pro can also be used to rotate pages, delete blank or duplicate pages, merge or combine separate files, and reorder pages within a document.

Adobe Pro has additional features not available in Adobe Reader X and you need to obtain access to it to process FOI requests. Approval for Adobe Pro can be obtained by submitting a 'System Access Request (SAR) form through the [request system](#) on FWO's Intranet page. Click the button on the right of the 'Resource group selection' box and in the 'Resource Search' pop up select 'approved desktop software' in the resource type field and then 'Adobe' in the resource name field. Select the 2nd option, 'Desktop 2010 – Adobe Acrobat Professional X (10)'. When approval has been granted (an EL1 can approve access), Adobe Pro can be accessed through the Windows start bar.

Editing Text

There will be times when you may need to edit the text in some documents. Adobe Acrobat Pro allows you to delete some text if required.

Select Tools, and type in Edit.

Select the option "Edit PDF".

Select Edit' – this will bring up text boxes around the written fields in your document.

Select the text box and delete!

Please note this function should only be used if you need to delete incorrect or irrelevant information. For example sometimes when you save a document such as email to a pdf it automatically saves your name into the document. You can now remove your name. 😊

You may also at times need to crop pages. This sometimes occurs when a document has been forwarded as a FYI and it is the only record we have which is being proposed for release. You can delete the unwanted text, then follow these steps to move the remaining information on the document to fit the page:

Select Crop Pages,

Select the data area you want to keep by holding down your mouse.

Move your mouse into the inside of the text box and right click.

Select set Cropbox'

Applying Redactions

Documents requested under the FOI Act may contain exempt information. If a document is exempt in part or in full, deletions will be made to the document before it is released to the FOI applicant. These deletions are known as 'redactions' and appear as black boxes covering the information in the documents.

Why do we need to redact information?

With the rapid changes in technology, the FWO is faced with ongoing challenges to protect the sensitive and personal information we hold. Therefore, when information is released outside of FWO, it is important that only the information we intend to release is in fact released.

Redaction includes the removal of certain information from within a document. The FWO uses Adobe Acrobat Pro to redact certain information prior to external release, to reduce the risk of releasing inappropriate information or breaching our obligations under the *Privacy Act 1988*.

Did you also know that documents and files can contain hidden metadata?

Metadata is the hidden data contained in documents, files or videos that describe it, such as:

- the date and location the document was created
- how much time you've spent working on the document
- the names of everyone who's worked on the document
- previous versions of the documents
- the comments, revisions and track changes that has been made to the document

Releasing metadata can infringe on people's privacy, including your own. It can also be damaging to the agency if confidential information is disclosed. To avoid this occurring, you should to remove the metadata in a document before sending or sharing it outside the agency.

Both Adobe Acrobat Pro, Microsoft Word and Excel have the function to remove metadata. Where practicable, the FWO's preferred method to share information outside the agency is by distributing documents in PDF format.

s.22 Irrelevant Information

s.22 Irrelevant Information

How do you redact information using Adobe Acrobat Pro?

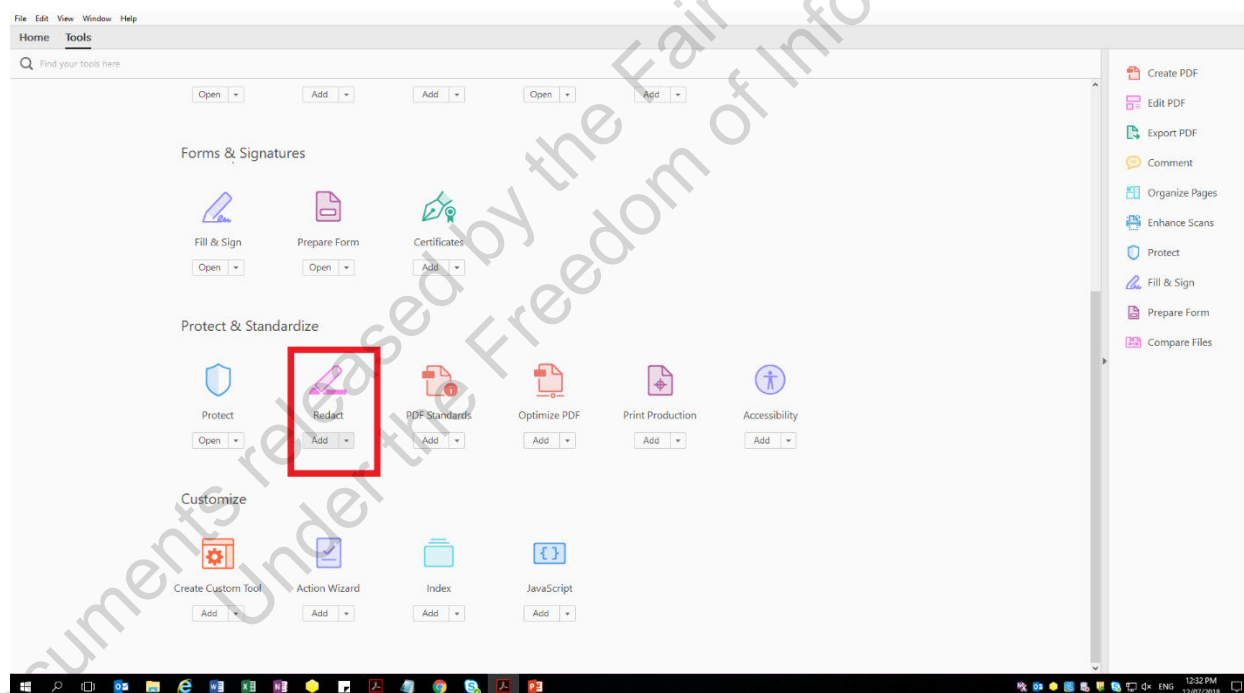
The steps outlined in this document reflect the FWO's current method of redacting information and follow the practices suggested by the Office of the Australian Information Commissioner.

Step 1

Open the document in Adobe Acrobat Pro. If it is not a PDF, it will convert into PDF format upon opening.

Step 2

Click on the **'Tool menu'**, then the **'Protect & Standardize sub-menu'**. Add **'Redact'** tool, which will now be added to your **'Tools'** sidebar.



Select the **'Redact'** tool and then select **'Mark for Redaction'**. This will provide three options – 'Text & images', 'Pages' and 'Find text' – choose the option that is applicable to your document.

For 'Text & images', use the tool to highlight the text to be redacted. For 'Pages', mark either the current or specific page you wish to redact in its entirety. For 'Find text', use this to find specific text in a document you wish to redact.



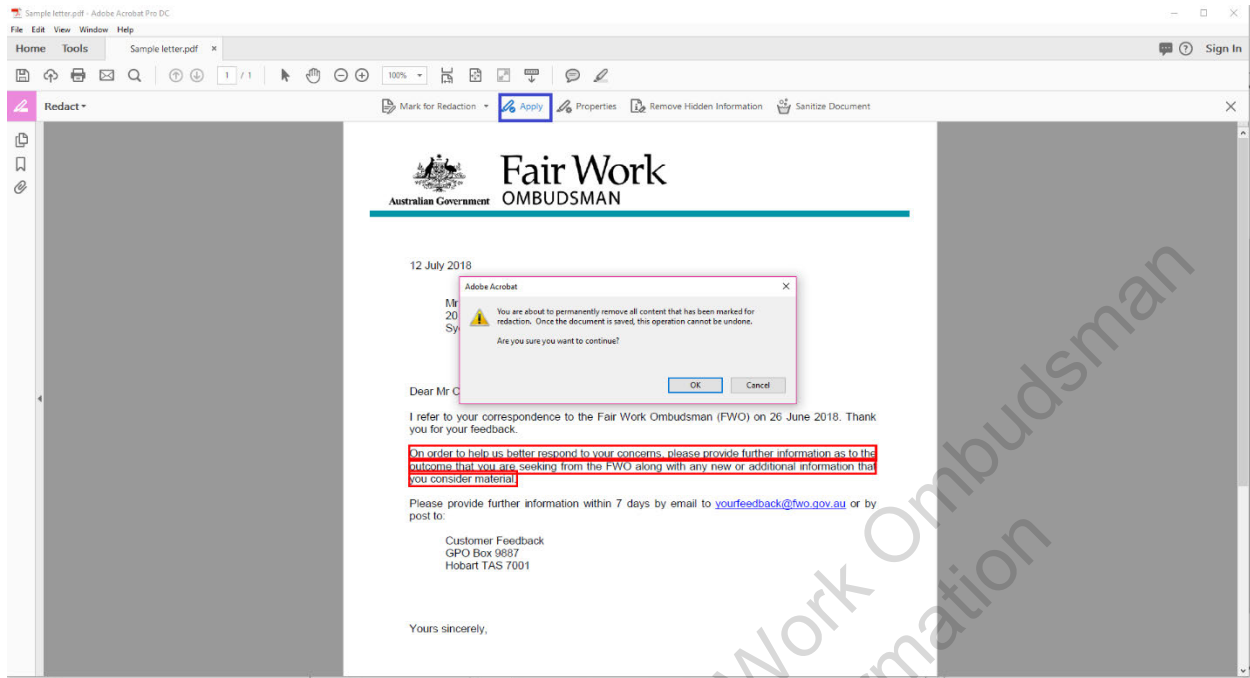
We now include the exemption grounds over redacted information. If you right click over proposed redactions, it gives you the option of inserting text to be included once the redaction is applied.

If you need to change the default option from US to Australia right click over a proposed redaction and select 'properties' then select 'overlay text', 'Redaction Code' and then select FOI (Aus).

Step 3

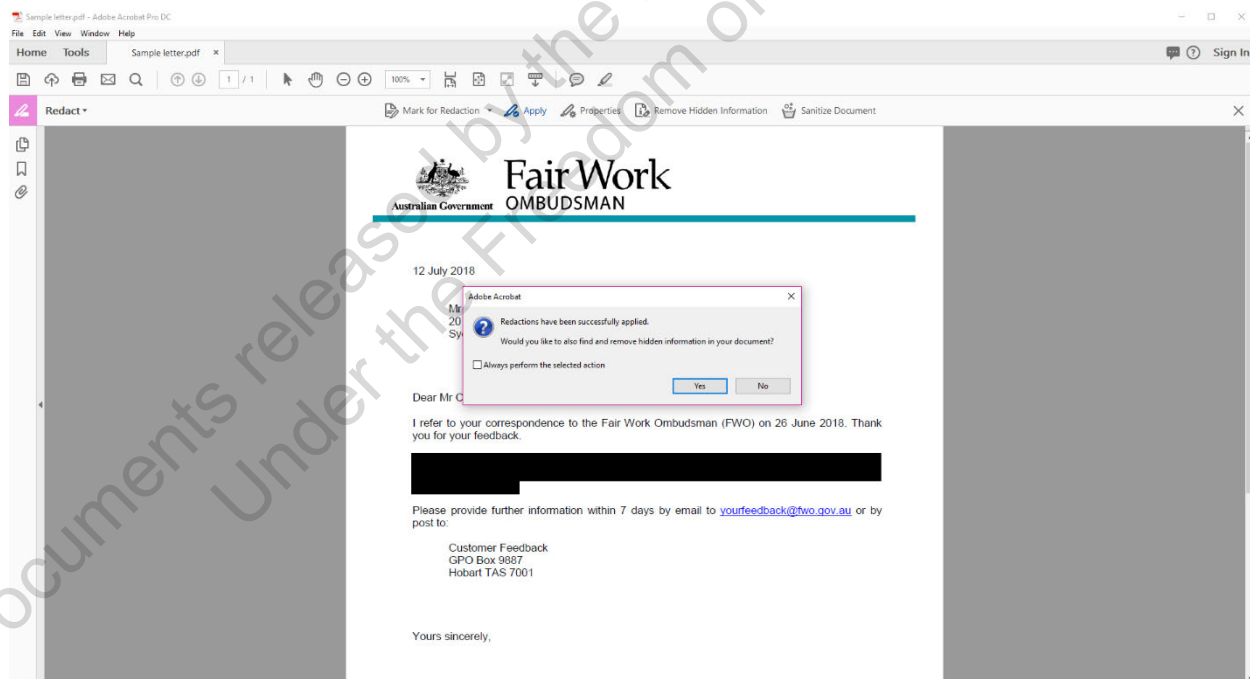
When all the required text is selected click '**Apply**' and agree to the pop-up message confirming the redaction.

Alternatively, this version of the document can be saved and distributed internally, so that staff can see the proposed redactions before they are applied.



Step 4

Adobe Acrobat Pro will then ask if you want to remove hidden data, which is metadata. This can be done in this step or separately (see below).



Step 5

Use **'Save'** or **'Save As'** to save the document. It is important to create a new document as the redaction step is permanent.

It is important to remove the hidden information from the document before it is released (as outlined at step 3). Until this is done, the exempt information is only removed from the face of the document; it is still there and can be easily uncovered (by highlighting the blackened section, right mouse clicking and selecting 'copy image' and then pasting the copied image into a Word document. As a precaution, it is

advisable to check each document before release by selecting at least one exempt section and pasting into a Word document.

Bates Numbering (page numbering)

Bates Numbering is a method of applying numbers to pages of documents. This helps the FWO explain to the FOI applicant the decision made with respect to each page. Adobe Pro allows users to apply folio numbers to one document or to a set of documents. To apply Bates Numbering, follow the steps below in Adobe Pro:

1. Select the tools button
2. Type in 'Organise Pages' into the search feature
3. Select 'More' and wave the mouse over 'Bates Numbering', and select 'Add'
4. Select the file you want to add the bates numbering to
5. A pop up box will appear on the top left corner of the page.
6. In the pop up box that appears, select the following options:
 - Font Name: Arial
 - Font Size: 12
 - Margins (top and right): 0.2

Then place your cursor in the 'Right Header Text' box and select 'Insert Bates Number'.

7. In the 'Bates Numbering Options' pop up box enter the following values:
 - Number of Digits: 3 (you may need more if there are more than 1000 pages)
 - Start Number: 001 (note: this only applies when the document to be numbered is the first document, otherwise you would continue from the preceding document)
 - Insert FOI reference number in brackets (FOI-XXX) in the prefix field, followed by a space (so there is a gap between it and the page number)
 - Leave the 'Suffix' blank.
(In some circumstance, such as preparing documents for consultation, we may use prefixes or suffixes to identify different consultation documents. For example, if we are preparing three pages to be sent to Robert Yellow, and four pages to Thomas Purple, we may use the prefixes 'RY' and 'TP' to identify them as separate consultation documents.)

Select 'OK'.

If you make a mistake applying Bates Numbering, you have to remove all the numbers and start again. Bates Numbering can be removed by following these steps:

- Select the tools button in the top right corner of the screen
- Type in 'Organise Pages' into the search feature
- Select 'More' and wave the mouse over 'Bates Numbering', and select 'Remove'

Adding watermarks

Before documents are released to members of the public, we add a watermark so it's clear that the documents were obtained under the FOI Act (to avoid dispute in the future). To add watermarks, open the document in Adobe Pro X and follow these steps:

1. Go to the Tools tab and type in 'Watermark' .
2. From the drop down menu next to 'Watermark', select 'Add'.

3. Add text to the text box ('Released under the [hit enter to start new line] Freedom of Information Act [hit enter to start new line] by the Fair Work Ombudsman').
4. Increase font size to 36.
5. Click the 'centre text' button (beneath the font drop down).
6. Click 45° rotation (under 'Appearance').
7. Reduce opacity to 12%.
8. Hit OK.

If you need to edit – go to Update (in the Watermark tab).

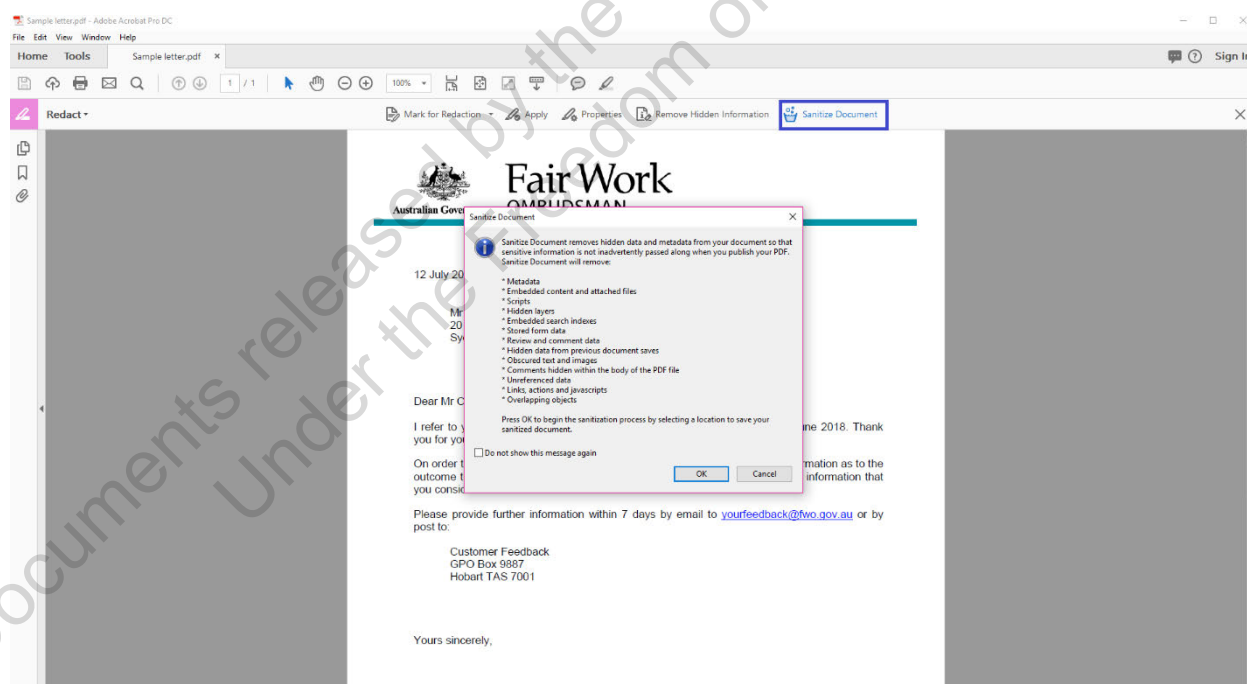
The process of removing metadata interferes with the watermark, so add the watermark after you have applied redactions.

Removing Metadata from Documents

How do you remove Metadata in Adobe Acrobat Pro?

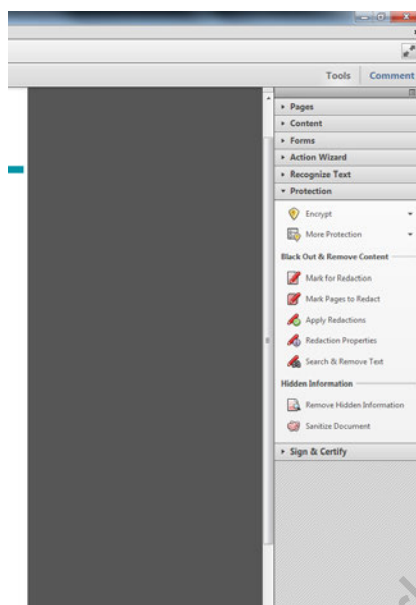
As previously stated, you can remove hidden data after redacting information in a document. Otherwise there are other alternatives.

Following step 1 and step 2 of 'How do you redact information using Adobe Acrobat Pro?', select '**Sanitize Document**'. This will bring up the following pop-up message:

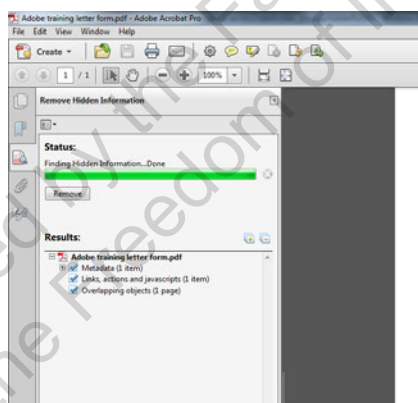


Select 'OK' to begin the sanitization process and select a location to save your sanitized document.

Alternatively, you can follow step 1 of 'How do you redact information using Adobe Acrobat Pro?', select '**Sanitize Document**'. This identifies and removes the metadata and saves a version of the document, in one step.



Alternatively to select which parts of metadata is to be removed, click **'Remove Hidden Data'**.



Uncheck the metadata to be retained, and then click **'Remove'**. The removal will only be applied when **'Save'** or **'Save As'** is selected.

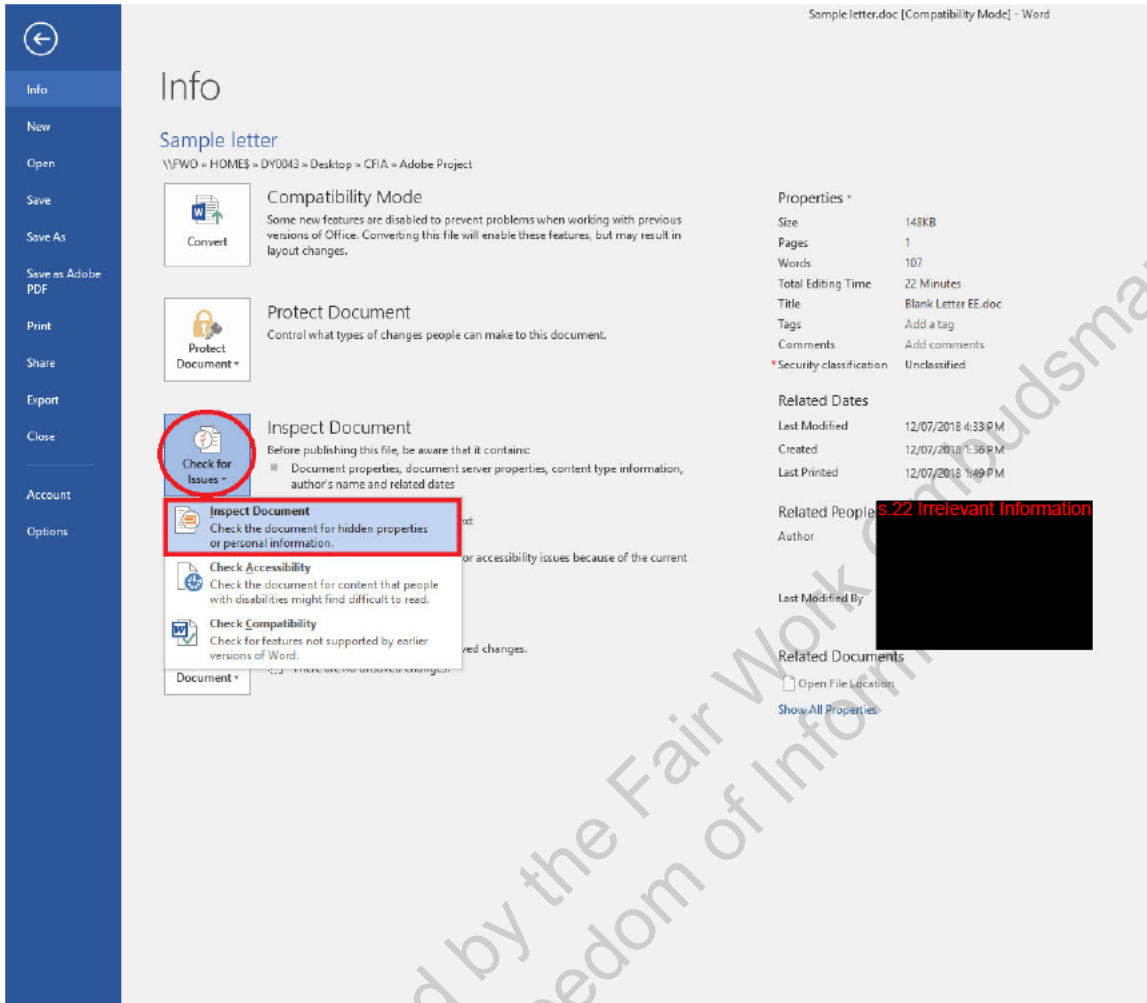
How do you remove Metadata in Word?

Step 1

Open the Word document and use **'Save As'** to create a new document. It is important to create a new document as the removal of metadata is permanent.

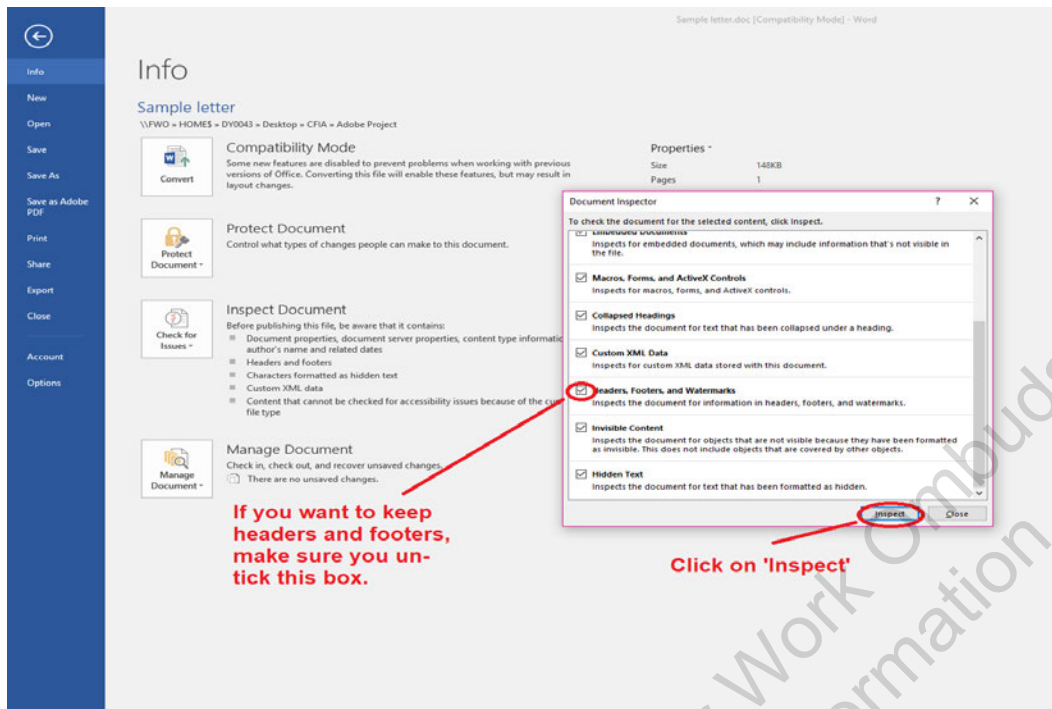
Step 2

Click on the **'File'** menu, then **'Check for Issues'**, a box will open up giving you 3 options, click on **'Inspect Document'**.



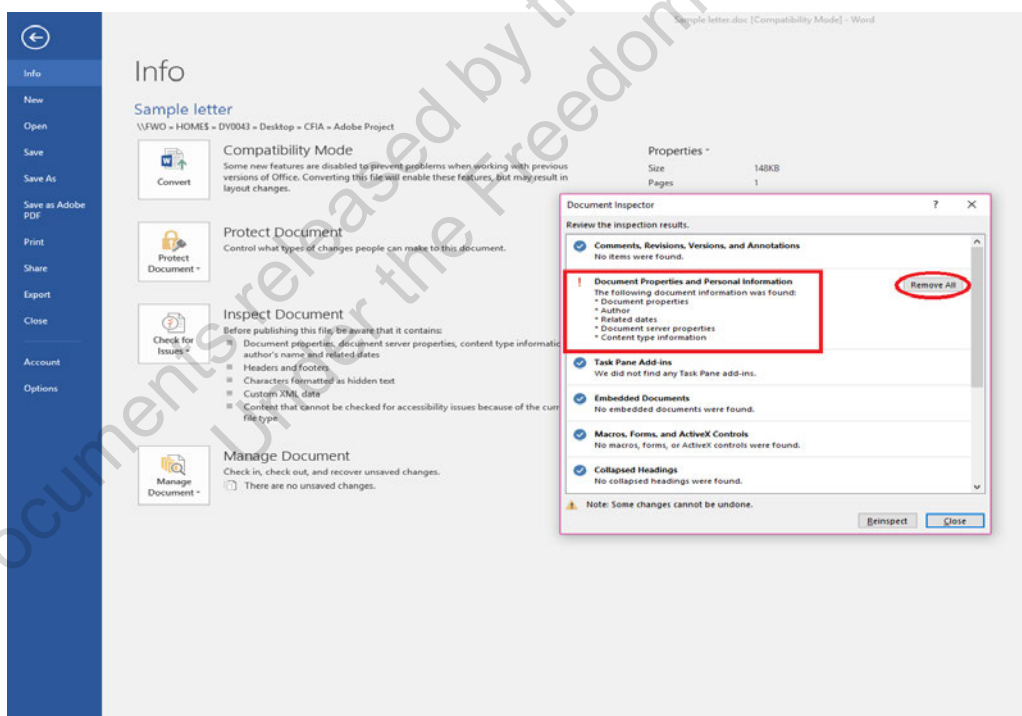
Step 3

A box will open up listing the kind of data it will inspect. Un-tick the box for the type data you want to keep in your document such as headers, footers and watermarks, and then click on 'Inspect'.



Step 4

If metadata is found, it will prompt you to remove it. Click on **'Remove All'** for each type of metadata that is found.



Step 5

Once the metadata has been removed, click on **'Reinspect'** to inspect the document again. Review your results and if all the metadata has been removed, your Word document can now be shared or sent.

How do you remove Metadata in Excel?

[Removing metadata from Excel Spreadsheets - YouTube Video](#)

Overview - steps to releasing information

It is important that when you release information outside the FWO that you ensure:

- appropriate approval for the release/publication has been obtained
- the information is appropriately redacted
- metadata is removed from the document
- the CFIA team is cc'd into any information access release(foi@fwo.gov.au) for statistical purposes, and
- the release is noted within the appropriate system (NEXUS,CSS) relating to the client or matter.

Related Guides & Training

If you would like further information on metadata and redacting information, please refer to Adobe's [Removing sensitive content from PDFs](#) guide.

For information about other feature within Acrobat Pro DC that can make everyday work simpler, such as the ability to quickly combine multiple files into a single PDF document, please refer to the [Acrobat tutorials](#) also published by Adobe.

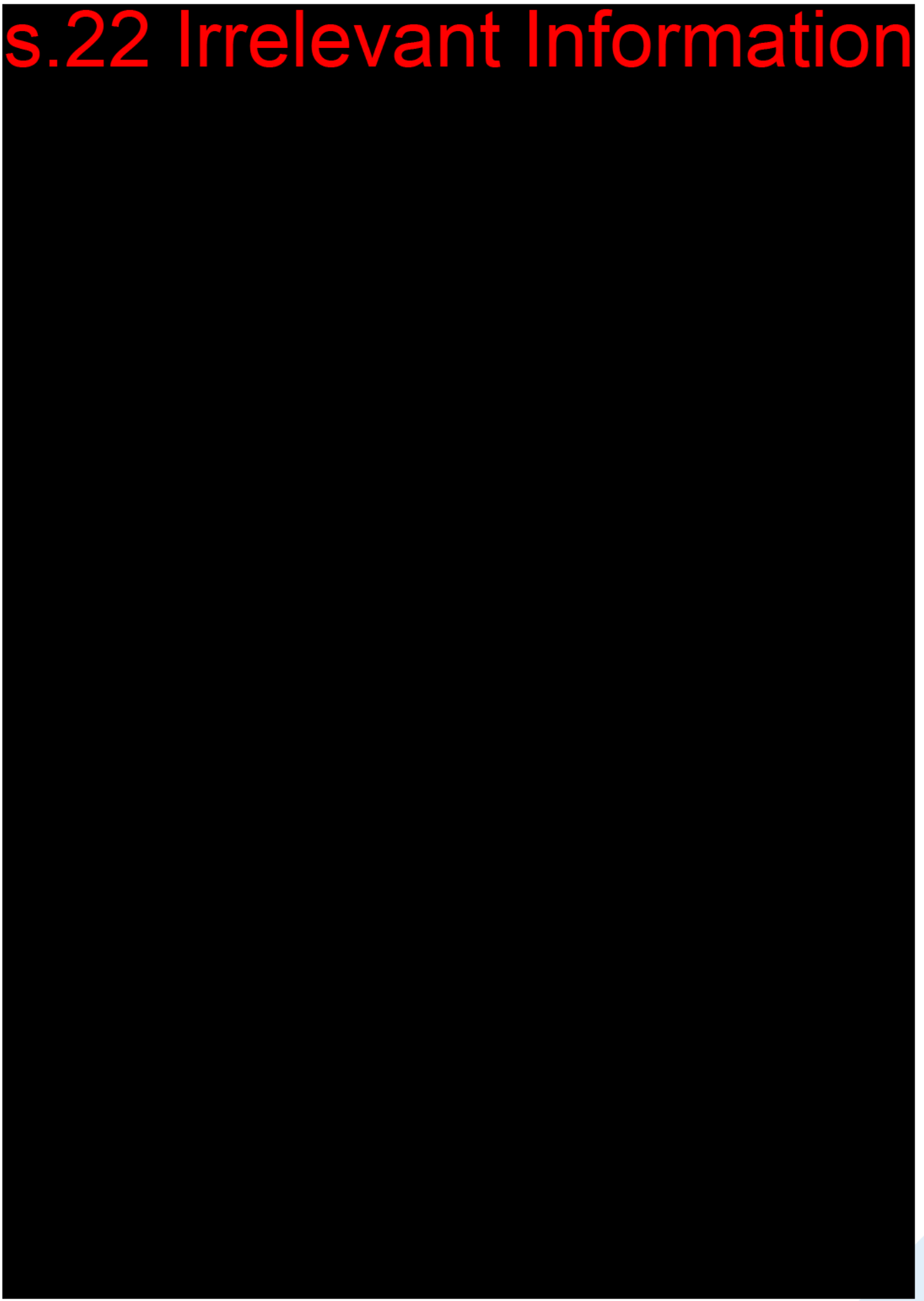
To apply the redactions permanently (i.e., to delete the content from the documents) follow the following steps:

1. When you have decided what content needs to be deleted and you have marked it for redaction, save a copy of the documents in the I:Drive (refer 1.4 below) and label this 'PSEC reference # – Applicant Name – Documents – redactions applied'. You can then select the 'Apply Redactions' button, which is found under the 'Black Out & Remove Content' heading.
2. This will black out all the content that was marked for redaction with the red box around it.
3. After selecting OK, another dialog box will appear saying 'Redactions have been successfully applied. Would you like to also find and remove hidden information in your document?' Select 'Yes' then wait for this to be removed (a green bar will extend across the page and 'Done' will appear above the green bar). Select 'Remove' (below the green bar). Another dialog box will appear – select OK (removing digital signatures etc). Depending on the size of your document, you may have to wait up to one minute for this to be processed.

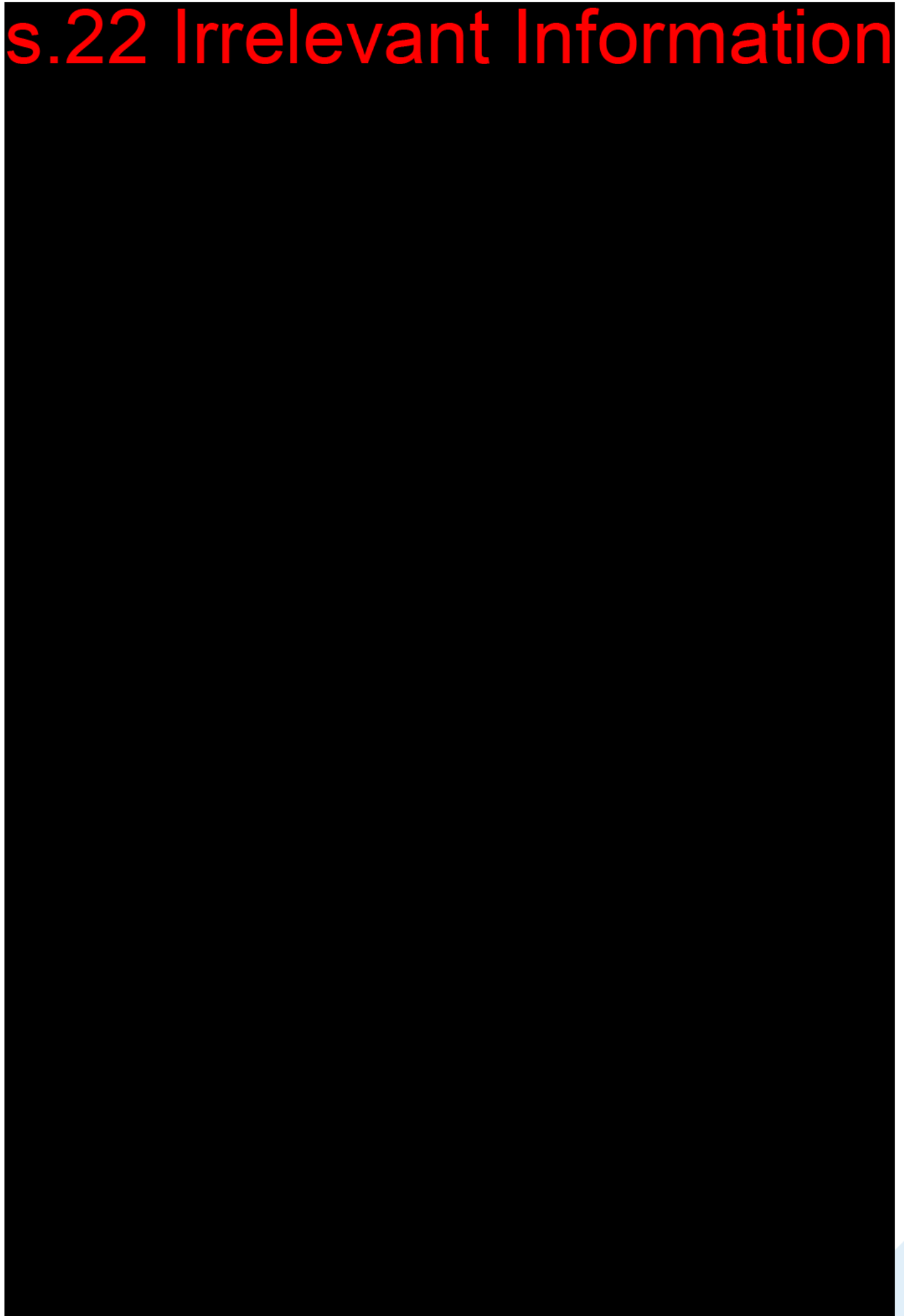
Note: When redactions have been saved it is not possible to undo them. That is why it is important to have several versions of the document saved on the I:Drive (an original, one for marking content to be redacted and one for saving redactions that have been applied). You may need to remove documents (or pages of documents) altogether before releasing them to the

s.22 Irrelevant Information

s.22 Irrelevant Information



s.22 Irrelevant Information



Information Access Policy

Published 1 May 2016

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Documents released by the Fair Work Ombudsman
Under the Freedom of Information



Australian Government

Fair Work
OMBUDSMAN

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Documents released by the Fair Work Ombudsman
Under the Freedom of Information

About this policy

The Fair Work Ombudsman (**FWO**) is an independent statutory agency created by the [Fair Work Act 2009](#) (the **FW Act**). The role of the FWO is to promote harmonious, productive and cooperative workplace relations, and to monitor, inquire into, investigate, and enforce compliance with relevant Commonwealth workplace laws.

This policy explains how FWO will deal with a request for information that is held/owned by us. FWO has discretion to release information it holds pursuant to section 718 of the FW Act. FWO also has obligations to comply with the [Freedom of Information Act 1982](#) (the **FOI Act**).

This policy is to be read in conjunction with the Information and Records Management Policy, the FWO [Privacy Policy](#), [The Guide for Handling Conduct Issues](#) and [Handling Suspected Code of Conduct Breaches](#).

Scope

A request from an existing (or recent) customer that involves provision of information that would usually be exchanged in the normal course of customer service provision will not be considered an Information Access Request in this Policy – for example, if a customer asks for payslips or documents they have given us. It will be considered as business as usual and therefore not fall within the scope of this Policy.

Information Access Principles

Principle 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 1988](#) (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. We are committed to keeping our [Information Publication Scheme](#) 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.

Principle 2: We will communicate and be responsive

We will ensure that our process for providing access to information is straightforward, timely and easy for people to understand. We will work with you to ensure that when a formal FOI request is required we can provide you with the information you want in the most efficient and least costly way possible.

We will always provide applicants with details of their review rights within the FWO and to the Office of the Australian Information Commissioner (**OAIC**) or Commonwealth Ombudsman.

Principle 3: We respect people's privacy and confidentiality

We will maintain people's privacy and confidentiality in line with our obligations under the [Privacy Act](#), [Privacy Policy](#) and other legislation. Where a request for information may contain a third party's information we will consult (where practicable) 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 permission of the person who supplied it. If permission to release the information is not given, the FWO will inform the party requesting access to the information that they may make an application under the [FOI Act](#). The FWO will then consider whether the information can be released in accordance with the [FOI Act](#).

Accessing FWO information

We provide access to information in the following ways:

- **Proactive publication of information** that we publish under the [Information Publication Scheme](#) or through our [website](#) and [media releases](#)
- **Discretionary release** of information under s. 718 of the FW Act which gives the FWO power to release information when it is necessary or appropriate to do so
- **Formal release of information**, where information is not released under Discretionary release or is not publically available, and is provided in response to an application made under the [FOI Act](#)

We will assess requests for access to information with reference to the:

- [FW Act](#)
- [FOI Act](#)
- [Privacy Act](#)
- [Copyright Act 1968](#)
- [Privacy Policy](#)
- [OAIC's Guidelines](#)
- [Handling Suspected Code of Conduct Breaches](#)
- Other legislation and guidelines (as applicable to each individual case)

How do I request information?

Who am I?	Who should I direct my request to?
<ul style="list-style-type: none"> ■ Are you a party to a Request for Assistance made to the FWO? 	<ul style="list-style-type: none"> ■ The FWO Officer you have been dealing with in relation to your matter
<ul style="list-style-type: none"> ■ Have you contacted the Infoline for advice or general information? 	<ul style="list-style-type: none"> ■ Phone Fair Work Infoline on 13 13 94
<ul style="list-style-type: none"> ■ Are you an employer selected for a compliance audit? 	<ul style="list-style-type: none"> ■ The FWO Officer you have been dealing with in relation to your compliance audit
<ul style="list-style-type: none"> ■ Are you a member of the public? 	<ul style="list-style-type: none"> ■ Send an email to foi@fwo.gov.au
<ul style="list-style-type: none"> ■ Are you a representative of a law enforcement body? 	<ul style="list-style-type: none"> ■ The FWO Officer responsible for the matter or send an email to foi@fwo.gov.au

	<ul style="list-style-type: none"> Requests made will be assessed closely before disclosing personal information for law enforcement purposes
<ul style="list-style-type: none"> Are you a representative of a Government agency or of an organisation with an MOU with FWO? 	<ul style="list-style-type: none"> Send an email to Government@fwo.gov.au
<ul style="list-style-type: none"> FOI Requests 	<ul style="list-style-type: none"> See Formal Requests for Information

How will requests for information be handled?

In deciding whether to grant access to information, FWO will have regard to section 718 of the [FW Act](#) and will consider the individual circumstances of each request.

Section 718(2) of the [FW Act](#) provides:

“The Fair Work Ombudsman may disclose, or authorise the disclosure of, the information if the Fair Work Ombudsman reasonably believes:

- (a) that it is necessary or appropriate to do so in the course of performing functions, or exercising powers, under this Act; or*
- (b) that the disclosure is likely to assist in the administration or enforcement of a law of the Commonwealth, a State or a Territory.”*

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

Certain information or documents will not usually be released by FWO under section 718 of the [FW Act](#). 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 FWO by the requesting party or correspondence between the FWO and the requesting party ■ workplace complaint and requests for assistance forms, and supporting documentation ■ copies of documents that contain the personal information of the requesting party ■ copies of any evidence provided by the other party to a matter (such as time sheets, pay slips, emails, and diary records relating to the requesting party) ■ file notes of telephone conversations or interviews between the requesting party and the FWO (where a record of conversation is made) other than notes taken during mediation ■ copies of correspondence between the FWO and other parties to the matter relating to the issues in dispute ■ copies of any tribunal or court decisions or authority relied upon in making a decision ■ call information from our Infoline in relation to the requesting party (includes call summaries and recordings) 	<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 (this is a confidential process) ■ legal advice provided by the FWO's lawyers or by external legal providers ■ information or documents relating to a matter that is currently before the courts (FWO action) ■ 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 a commercial value to a business

¹ Decisions about information release in these cases will be made in accordance with the *Privacy Act 1988* and FWOs Privacy Policy.

Formal requests for information

If the information you want can't be released in any of the ways outlined above, you can make an application under the FOI Act.

To make an FOI request

You need to put your request in writing to the Customer Feedback and Information Access Team via one of the following methods:

email - foi@fwo.gov.au
fax - (02) 6204 2364
post - GPO Box 9887 Melbourne VIC 3001

Include the following information:

- state that you're making an application under the [FOI Act](#)
- provide a specific and detailed description about the information or document you want, so we can identify it quickly
- provide contact details so we can communicate with you (e.g. email, postal, address, and telephone or fax number)

The [FOI Act](#) and the [Freedom of Information \(Charges\) Regulations 1982](#) allow FWO 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 [FOI Charges Fact Sheet](#) details when FWO will and won't charge, and the process to be followed.

FWO will let you know that we've received your FOI request by sending you a letter within 14 days of receipt and we'll send you a decision in writing within 30 days from the day after we get the request. 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. FWO will let you know if timeframes are extended.

Your FOI request will be taken to have been withdrawn where the requested information has been released to you outside of the FOI Act (for example, under s. 718 of the FW Act or by other means).

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
- 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.

Roles & Responsibilities

The decision to release information through a discretionary release will be made by the relevant Assistant Director, in conjunction with the FWO Officer responsible for the matter. Where the FWO makes a decision not to release the information, an individual may choose to make an application under the [FOI Act](#).

The Customer Feedback & Information Access Team are the first contact point for FOI requests made to FWO. In undertaking these functions, the Customer Feedback & Information Access Team and [FOI delegates](#) will follow the FWO's Information Access procedures and will be guided by the resources published by the OAIC.

FWO Information Publication Scheme

As required by the [FOI Act](#), we have an [Information Publication Scheme](#).

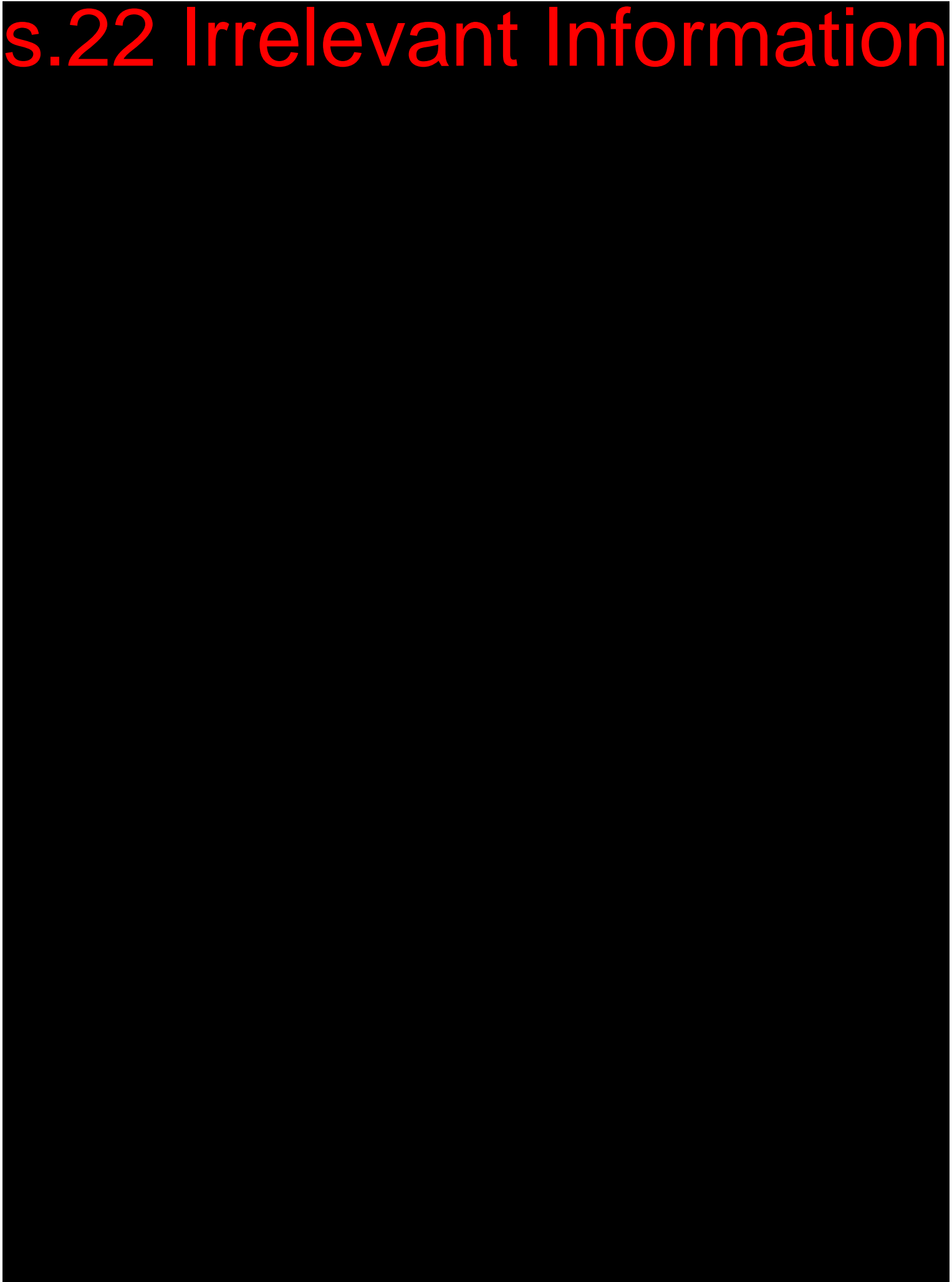
FWO Disclosure Log

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.

s.22 Irrelevant Information



s.22 Irrelevant Information



Access to Information

- Information Access Policy
- Need to know
- Good news stories happen
 - Assist employers and employees to better understand a workplace dispute allowing them to agree on an outcome
 - Allow a liquidator to gain a better knowledge of an entity's financial position leading to an earlier settlement of outstanding entitlements
 - Demonstrate that the FWO has put forward a well-considered position or strategy about a topical issue.
- [More resources here.](#)

Information Access Policy (IAP)

- Information Access Principles:
 - Principle 1: We will release information when we can
 - Principle 2: We will communicate and be responsive
 - Principle 3: We respect people's privacy and confidentiality
- Access to information needs to be authorised by a delegate (s.718 of the Fair Work Act or FOI Act)

[Available on our website](#)

Information Access

- *Privacy Act*
- *Public Service Act*
- *Fair Work Act – Section 718*
- *Freedom of Information Act*



Fair Work Act – Section 718

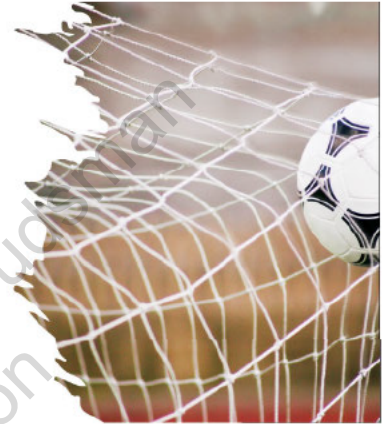
- decision made by a delegate: authorised disclosure
- where the FWO, or authorised delegate, reasonably believes:
 - (a) it is necessary or appropriate to do so in the course of performing functions or exercising powers under the FW Act, or
 - (b) the disclosure is likely to assist in the administration or enforcement of a law of the Commonwealth, or a State or Territory.
- Table on page 6 of IAP – examples of the types of documents

Information Access Policy (IAP)

Information which may be suitable for release	Information not suitable for release
<ul style="list-style-type: none"> information and documents provided to the FWO by the requesting party or correspondence between the FWO and the requesting party workplace complaint and requests for assistance forms, and supporting documentation copies of documents that contain the personal information of the requesting party copies of any evidence provided by the other party to a matter (such as time sheets, pay slips, emails, and diary records relating to the requesting party) 	<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 (this is a confidential process) legal advice provided by the FWO's lawyers or by external legal providers information or documents relating to a matter that is currently before the courts (FWO action) documents containing deliberative content, such as recommendations currently under consideration, or

Freedom of Information Act

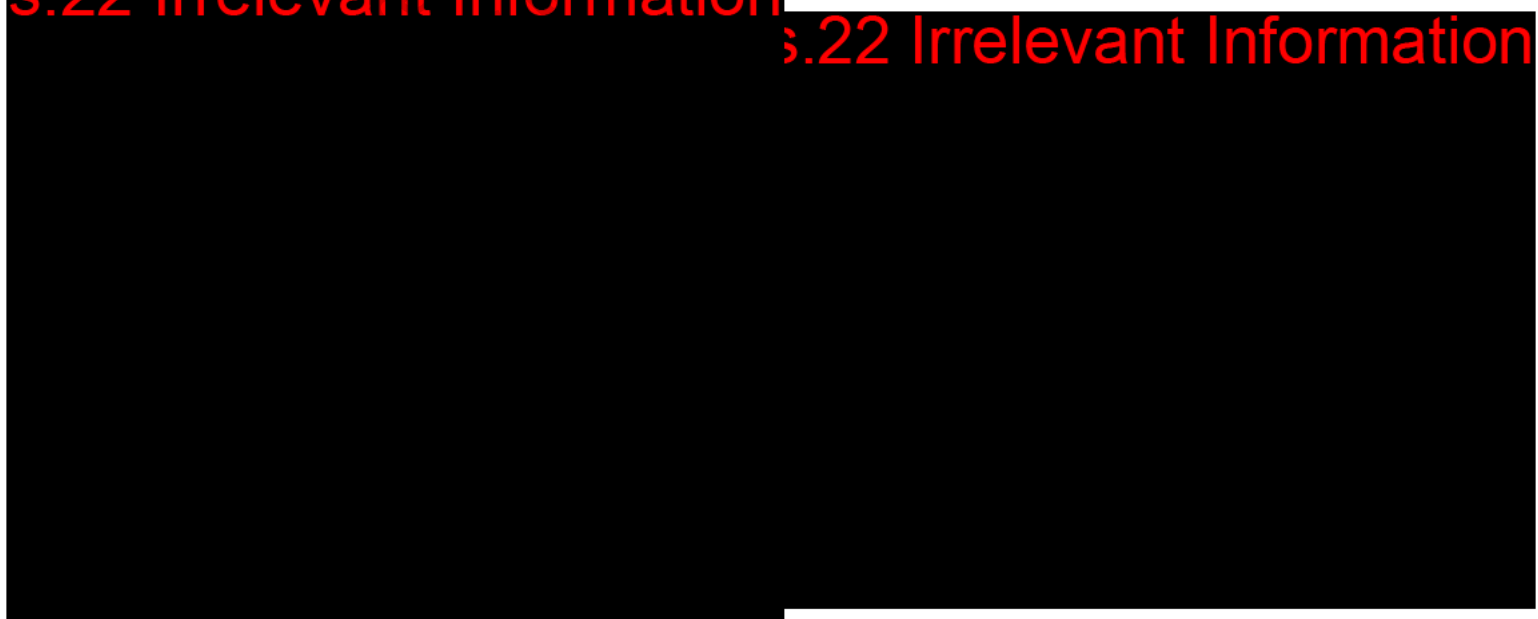
- Right to access information
- Pro-disclosure legislation
- Must release unless an exemption applies
- Delegation
- Applicant has review rights



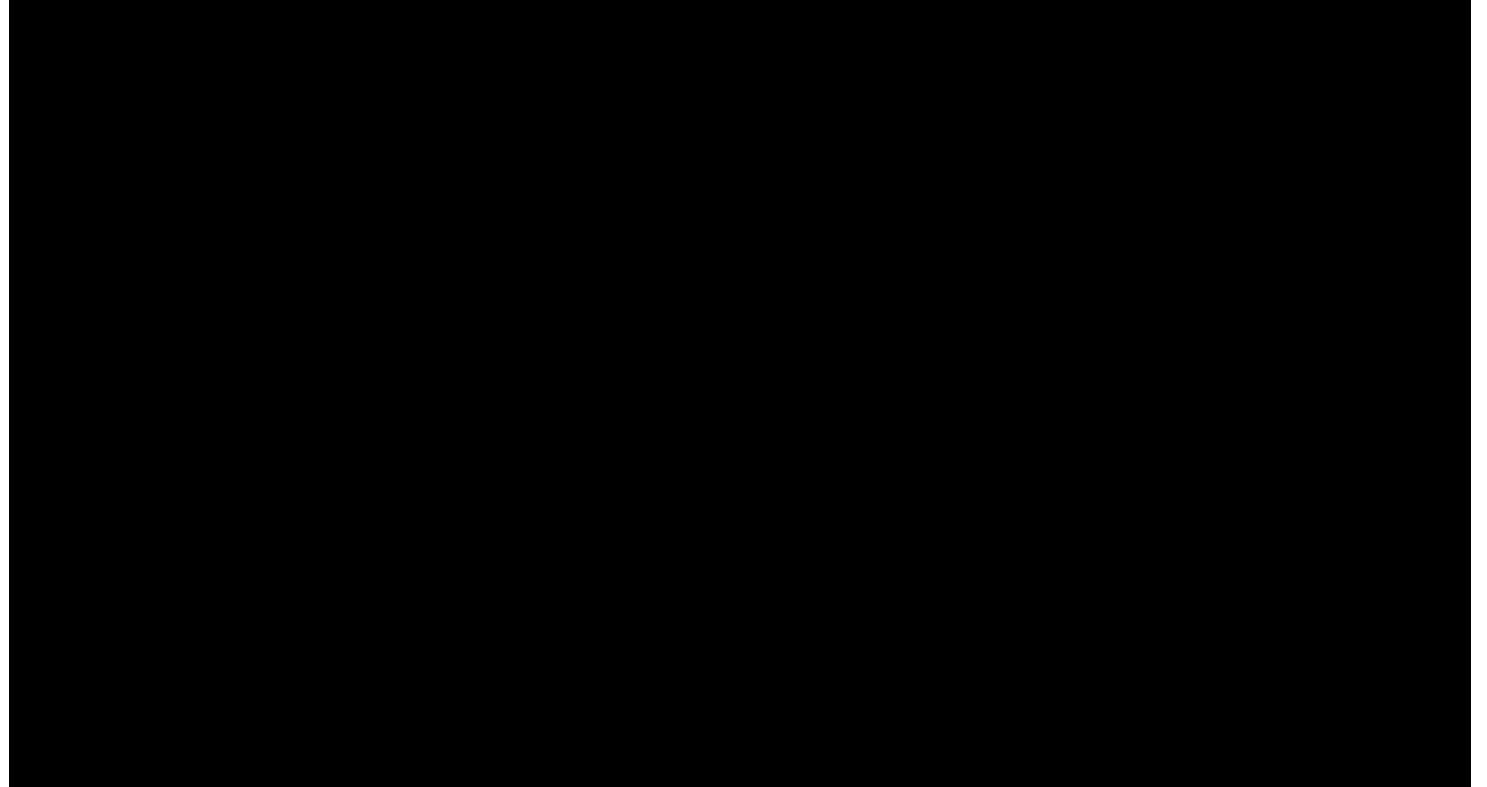
Released by the Fair Work Ombudsman
 under the Freedom of Information Act

s.22 Irrelevant Information

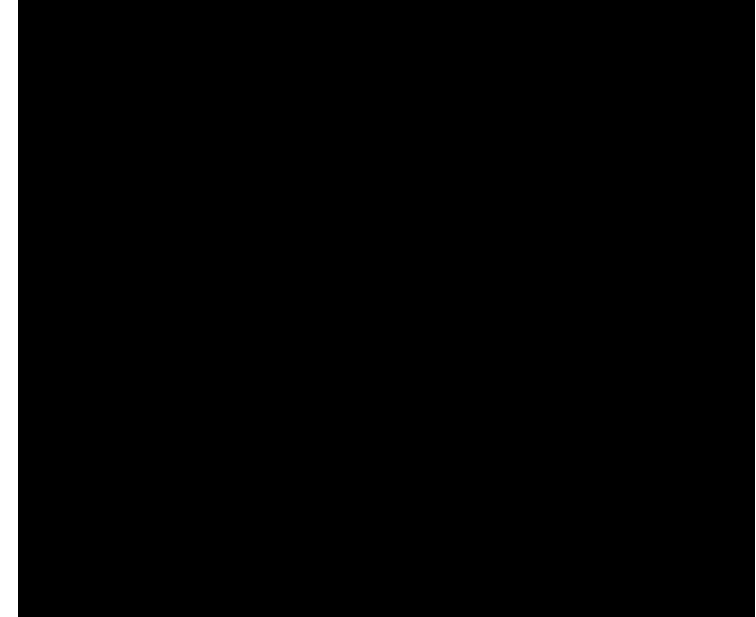
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Information Governance role

- Assess documents
- Consult with any third parties
- Make any exemption claims over the documents
- Seek final feedback from the business area

s.22 Irrelevant Information

Your role

- Provide any final feedback
- This may include an update as to the progress of the matter.



FOI Statutory Timeframes

- Generally 30 days
- 30 days extra if we need to consult with third parties
- If timeframe not met, the Fair Work Ombudsman is taken to have made a decision to refuse access to the documents

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Managing Information Access Requests (Individuals and Non-Government Entities) Policy

Version 1.0

August 2021

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Document Management

Version History

Version	Date	Author	Revision Comments
V0.1	11/11/2020	s.22 Irrelevant Information	Initial Draft
V0.2	20/04/2021		Amend initial draft to split into two policies
V0.3	15/06/2021		Incorporate Assistant Director, Information Access comments
V0.4	01/07/2021		Incorporate comments from Myfwny Saboisky
V0.5	09/07/2021		Incorporate comments from Technology Branch
V0.6	19/07/2021		Incorporate comments from Legal Group
V0.7	21/07/2021		Additional comments from Assistant Director, Information Access
V0.8	30/07/2021		Final amendments
V0.9	05/08/2021		Further amendments from meeting with Legal Group and AGS
V1.0	17/08/2021		Final Legal Group review

Approvals

Name	Role	Date
s.22 Irrelevant Information	Director, Information Governance	12082021
	Executive Director, Corporate Services	12082021
	Accountability Sub-Committee	17092021

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Under the Freedom of Information Act

Purpose

The Managing Information Access Requests (Individuals and Non-Government Entities) Policy (Policy) provides guidance to FWO staff to ensure that requests for information access received from individuals and non-government entities are managed in a way which is consistent across the organisation and complies with FWO's legislative obligations and with the [Information Access Policy](#).

The Policy has been designed to:

- support efficient and timely access to certain information and documents
- provide clear guidance on how to manage information access requests
- ensure FWO staff understand their roles and responsibilities when managing information access requests
- ensure that information access decisions take into account the Australian Privacy Principles set out in the [Privacy Act 1988](#) relating to the handling of personal information, including the collection, use, storage and disclosure of personal information, and access to and correction of that information.

Applicability

The Policy applies to all FWO staff. The term "staff" covers all permanent, temporary or casual staff, and staff seconded from other organisations. It includes Fair Work Inspectors appointed under section 700 of the FW Act. It also applies to any third parties engaged to provide services to FWO, including contractors and consultants and shared services providers.

Attachment A is a role and responsibilities table for the management of information access requests within FWO.

This Policy is not applicable to:

- information access requests received from Australian Government, State or Territory entities or from Ministers (see Managing Information Access Requests (Government Entities) Policy)
- access to information by FWO staff to allow them to undertake their duties (see FWO IT Security Policy)
- access to information which FWO has already made publicly available through our website or other means.

Key definitions

- **APPs** - the Australian Privacy Principles are issued under the Privacy Act and are mandatory requirements for Australian Government agencies.

- **Aggregate data** – data formed by combining individual data which has undergone an appropriate and robust de-identification process to the extent that it is not personal information and is therefore not subject to the Privacy Act. Aggregate data refers to individual data that are averaged by geographic area, by year, by service agency or by other.
- **Charges** - the FOI Act allows agencies to charge for providing access to documents that do not contain the personal information of the FOI applicant. If InfoGov decides that a FOI applicant is liable to pay a charge, they will be sent a preliminary assessment of the charge. The applicant will be given 30 days to respond to the charges notice.
- **Data** – is any information in a form capable of being communicated, analysed or processed (whether by an individual or by computer or other automated means).
- **Data use proposal** – a data use proposal is a specific type of information access request where access is sought to FWO data for a specific, defined purpose.
- **DESE** - Department of Education, Skills and Employment, as it may be known from time to time, is a shared services provider to FWO.
- **Disclosure Log** - when the FWO releases a document in response to an FOI request, the FOI Act requires that the information be made publicly available on its website, unless the document contains personal or business information that it would be unreasonable to publish.
- **FOI Act** – the *Freedom of Information Act 1982*.
- **FW Act** – the *Fair Work Act 2009*.
- **FWO Officer** – staff of the Office of the Fair Work Ombudsman. The term “staff” has the meaning given in this Policy.
- **Forensic searching** - specialised searching of user created Electronically Stored Information (ESI), typically documents, images, emails and other files types created by a user.
- **FOI Request** - an FOI request is a request for access to documents which is made under the FOI Act.
- **FWO** - the Fair Work Ombudsman or the Office of the Fair Work Ombudsman as the context requires.
- **IA Delegate** – a person who has been authorised under ss 10A(1) and 23(1) of the FOI Act, s 72E(a) of the PS Act and regulation 9.2 of the PS Regulations or s 718(2) of the FW Act. See [Delegation of Powers](#) under the FW Act and the [Delegation of Freedom of Information Powers](#).
- **IA Policy** – the [Information Access Policy](#) is a publicly-available policy which explains to employers, employees and their legal representatives how the FWO deals with information access requests.
- **IA Request** – a request made by an individual or non-government entity to any part of the FWO to access information held by the FWO.
- **IA Requestor** - individual or non-government entity making an IA Request.
- **InfoGov** - the Information Governance Team.

- [Information Publication Scheme \(IPS\)](#) - the [IPS](#) is required by the FOI Act and provides a statutory framework for the proactive publication of information and documents held by Australian Government agencies subject to the FOI Act. The [IPS Agency Plan](#) outlines how the FWO will comply with this requirement.
- **Metadata** - metadata is data contained in documents, files or videos that describes them. It includes:
 - the date and location the document was created
 - how much time has been spent working on the document
 - the names of everyone who has worked on the document
 - previous versions of the documents
 - the comments, revisions and track changes that have been made to the document.
- [OAIC](#) - the Office of the Australian Information Commissioner, which is the independent national regulator for freedom of information.
- **Personal Information** –information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion (as defined in the Privacy Act).
- [PS Act](#) - *Public Service Act 1999*.
- [PS Regulations](#) – *Public Service Regulations 1999*.
- [Privacy Act](#) - *Privacy Act 1988*.
- **Redaction** - censoring or obscuring part of a text for legal or security purposes.
- **SRAR** - Strategic Research, Analysis and Reporting Team.

Our approach

The FWO fosters a co-operative approach to information access, whereby we seek to understand the core of the individual's request through direct engagement and provide access in the most efficient and appropriate manner.

The three principles underpinning FWO's approach to information access are:

- We will release information when we can
- We will communicate and be responsive
- We respect people's privacy and confidentiality.

IA Requests can be received in many ways and are not limited to formal requests in writing. IA Requests do not have to be a request for a physical document - they can include a request for a report or for information held in databases or as metadata.

IA requests should be managed in the fastest and most efficient way possible with the least impact on agency operations. IA Delegates should check that information is not already available through the Information Publication Scheme or through our website, published reports or media releases prior to accepting a request. Discretionary or administrative release of information should be considered as a first option before requiring access under the FOI Act as it represents the fastest and most efficient way of managing an information access request.

Types of information release

The FWO has four primary avenues for release of information to individuals, which may sometimes be inter-related:

- 1) Proactive publication of information that the FWO publishes under the Information Publication Scheme or through our website and media releases
- 2) Administrative release of information outside of the FOI Act
- 3) Release of information under the FOI Act
- 4) Release of personal information under the Privacy Act.

Proactive release of information

The FWO releases information to the public in a number of ways including through the [Information Publication Scheme](#), making information available on our website and through the publishing of reports and media releases. The FWO is committed to proactively releasing information that is of interest to the Australian public and we will continue to identify and release such information in an accessible and timely manner in accordance with our statutory powers and functions.

Requests for information which has been proactively released by the FWO will not be considered an IA Request as defined in this Policy and should be managed by forwarding a link or redirect to the information to the requestor.

Administrative release of information outside of the FOI Act

Administrative release of information provides a less formal avenue for provision of information than the FOI Act and may offer resource benefits to FWO as well as quicker processing times for applicants when compared with the FOI Act.

Administrative release of information may occur under the:

- **PS Act** – FWO employees may request the discretionary release of their employment information under the PS Act or s 15A of the FOI Act.
- **Privacy Act** – an individual may request access to information about themselves.
- **FW Act** - s 718(2) of the FW Act gives the FWO discretion to provide information as long as a reasonable belief is held that it is necessary or appropriate to do so (in the course of performing functions or exercising powers under the FW Act) or is likely to assist in the administration or enforcement of a law of the Commonwealth or a State or Territory. Refer to [FW Act](#).

The decision to release information outside the FOI Act must be made by an IA Delegate as the authorised decision-maker after giving due consideration to the requirements of the relevant legislation (see Managing Access Requests below). Any authorised disclosure should also be consistent with the Privacy Act.

Disclosure of information under the FOI Act

The FWO, as an Australian Government Agency, is required to comply with the FOI Act. The FOI Act provides members of the public with the legal right to:

- access documents and information (except where exemptions apply) held by the FWO
- request that the FWO amend or annotate information held by the FWO, if it is incomplete, out of date, incorrect or misleading (where it relates to the individual making the request)
- seek a review of a FWO decision to refuse access to a document or amend personal information.

The FOI Act permits exemption of documents in certain circumstances. The decision to disclose information is based on the particular facts and circumstances of each request and the documents in issue. Some of the key reasons the FWO does not release information include:

- personal privacy
- commercially sensitive/business information
- legal professional privilege
- the impact on the effectiveness of the FWO's compliance or enforcement methods
- the impact on the FWO's ability to properly and efficiently perform its functions, including its personnel management functions.

s.22 Irrelevant Information

Requests to the FWO by individuals for access to their personal information under the Privacy Act will be treated as an IA Request as defined by this Policy and will be managed according to this Policy.

Managing information access requests

Attachment B is a checklist outlining the steps to be taken when managing information access requests.

Accepting the request

Requests for access to information collected under the FW Act, including personal information of the applicant, will be directed to the FWO Officer or business unit responsible for their customer interaction or matter. Where there is no identifiable individual with responsibility for the matter, the information access request should be forwarded to the InfoGov Team in the first instance.

A request from a FWO employee wishing to access their own employment information will be forwarded to the People Services Team at payqueries@fwo.gov.au.

The InfoGov Team accepts and processes requests for information made under the FOI Act.

Where an information access request is lodged on behalf of an individual(s), for example by a legal representative or trade union, the FWO Officer must ensure that adequate proof of identity and/or consent from the individual(s) is received prior to releasing the information.

Search and Retrieval

The FWO Officer who has received the IA Request should undertake thorough searching to determine whether the FWO holds any relevant information. This may include liaising with other business units or SRAR to undertake searches. The FWO Officer should retain a record of the searches conducted.

If the quantity of information or the complexity of the request is likely to impact on the FWO's capacity to deliver other activities and functions, the FWO Officer should negotiate a reduction in scope with the IA Requestor. If a reduction in scope cannot be negotiated, or if multiple requests are received within a short time frame, the FWO Officer should refer the request to the IA Delegate to decide whether to proceed by considering:

- the requirements of the legislation under which the request is being processed (see Making a Decision below)
- the time and effort involved in responding to the request and whether meeting the request would constitute an unreasonable diversion of the FWO's resources.

Making a decision

The decision to disclose information will, in most cases, be made by the Assistant Director responsible for the matter (IA Delegate), in conjunction with the FWO Officer who releases the information after consultation with stakeholders as outlined in [Attachments H](#) and [I](#) to this document.

In deciding whether to grant access to information, the IA Delegate must have regard to:

- the individual circumstances of each request
- the Australian Privacy Principles, the Privacy Act and the [FWO Privacy Policy](#).

Examples of information that can be disclosed outside the FOI Act include:

- information released by the Media Team to media organisations
- personal information about the IA Requestor under the Privacy Act
- information on the FWO websites which the IA Requestor would like in a different format
- requests from existing (or recent) customers that involve provision of information that would usually be exchanged in the normal course of customer service provision which should be managed as business as usual.
- data and statistics which do not contain personal or business information.

The section below provides more detail on information disclosure under specific legislation. InfoGov is available to assist IA Delegates in the decision-making process by providing training and support services.

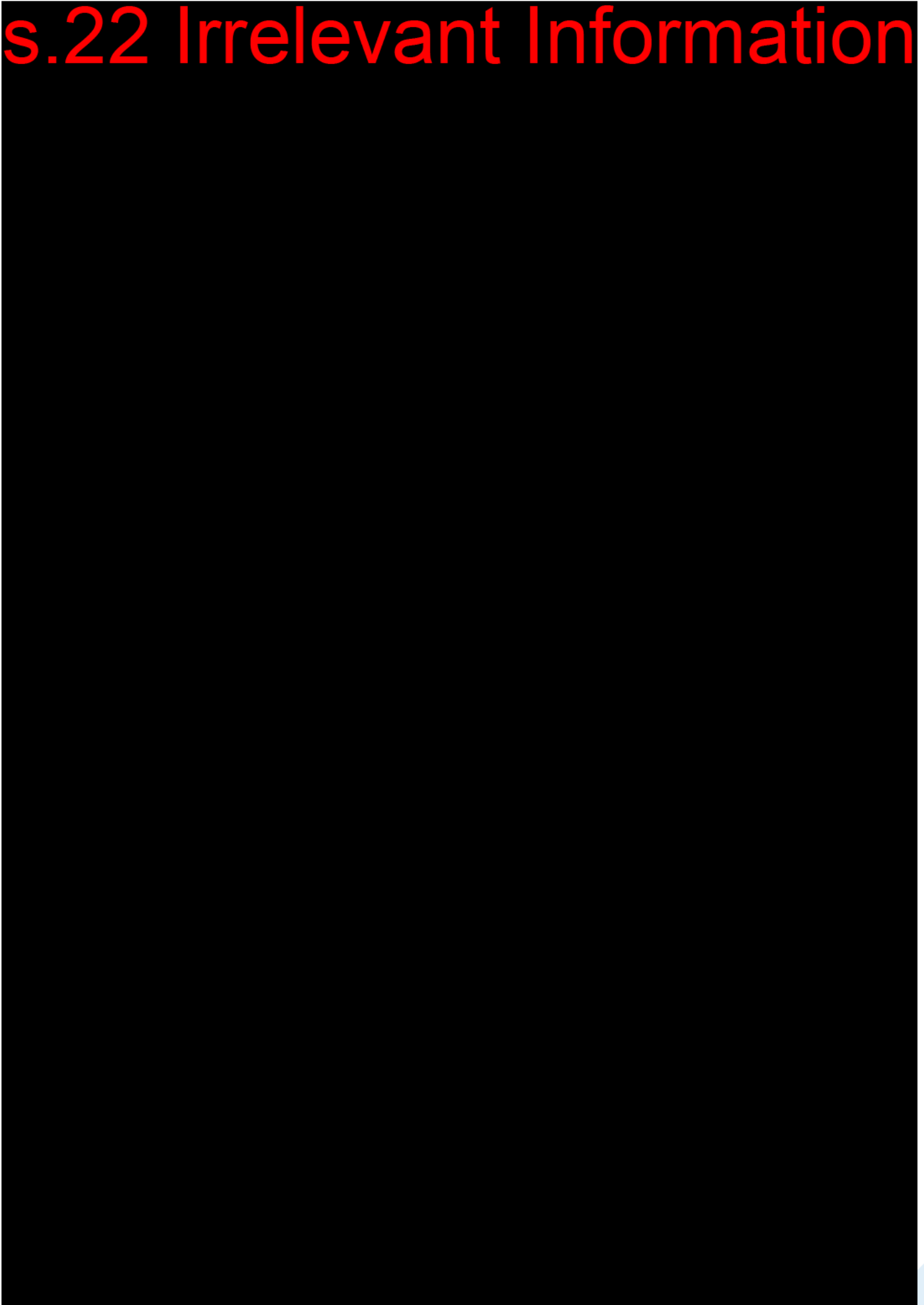
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Where the IA Delegate determines that the disclosure is not authorised, an email should be forwarded to the IA Requestor to inform them of the reasons for the refusal of their request and to advise them that they may seek access to the information under the FOI Act.

s.22 Irrelevant Information



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Quick Guide to making a decision

The following table has been designed to assist FWO Officers and IA Delegates in making a decision on information disclosure. It is not intended as an exhaustive list and IA Delegates should contact InfoGov for further assistance with individual requests.

Requestor	Type of document	Purpose of request	Consider
Individual	Personal Information	As part of matter under FW Act	Must be provided under Privacy Act unless grounds for refusal exist – see Attachment E . Grounds for refusal – provide advice on rights to seek access under FOI.
Individual	Personal information	FWO employee	Review Australian Public Service Commission Guidelines to determine whether authorised. Grounds for refusal – provide advice on rights to seek access under FOI.
Media outlet	Outcome of investigation	Publication	Personal/business information should not be disclosed unless already publicly available. Manage as FOI request.
Liquidator	Employer/employee information	Bankruptcy creditor action	Does liquidator have legal basis for seeking access under FW Act or Corporations Law? If legal proceedings on foot, consider requiring summons or subpoena
Union	Employer/employee information	To decide if legal action should be taken	Personal/business information should not be disclosed without consent unless already publicly available. Manage as FOI request.
Researcher/academic	Employers with contraventions in a particular industry	Research and publication	Personal/business information should not be disclosed without consent unless already publicly available. Consider whether section 718 of FW Act provides basis for release

Requestor	Type of document	Purpose of request	Consider
			Consider providing aggregated data Grounds for refusal. Provide advice on rights under FOI Act.

Managing FOI requests

Attachment C is a checklist which outlines the steps to be taken when managing FOI requests.

Accepting the request

InfoGov is responsible for managing the FWO's obligations under the FOI Act. It is the primary contact point for all FOI requests and is responsible for informing and supporting the FWO regarding decisions to release information outside the FWO.

FOI requests must be made in writing by the individual applicant to the following address. FWO staff who receive a FOI request from an individual should forward it to the address below:

Email	foi@fwo.gov.au
Post	Information Governance Team Fair Work Ombudsman GPO Box 9887 Sydney NSW 2001

InfoGov is responsible for ensuring all FOI requests are acknowledged and finalised within statutory timeframes. There is no application fee to make a FOI request or to apply for internal review of a decision or amendment or annotation of a personal record. Section 29 of the FOI Act allows agencies to impose a charge to cover the cost of search and retrieval, and document processing in certain circumstances. The FWO will consider charging a FOI applicant when the requested documents do not contain their personal information. A decision about whether to charge will be made when requests are received, taking into consideration the [FOI Charges Fact Sheet](#).

InfoGov will coordinate FOI requests with the support of business areas to ensure the FWO meets the statutory timeframes for processing requests. InfoGov may decide to transfer the request to another government agency under s.16 of the FOI Act where relevant documents are in the possession of another agency, or where the subject matter of the request is more closely connected with the operations of another agency.

An indicative schedule for the management of FOI requests within the 30 day timeframe is provided below. This timeframe can be extended with the agreement of the FOI applicant and/or in cases where third party consultation is required and/or by applying to OAIC for an extension of the timeframe.

- 1-5 days to scope a request (ideally 1-2 days but can sometimes take longer)
- 10 days for search and retrieval
- 10 days for assessment
- 5 days for executive noting if required.

Search and Retrieval

InfoGov will direct the initial search and retrieval request to the Director of the relevant business unit and will liaise with a designated contact within each business unit to coordinate the search and retrieval process. The email and search memo which are **Attachments F and G** provide a range of information to assist the FWO in complying with the FOI Act, including determining whether processing a request constitutes an unreasonable diversion of the agency's resources, assessing applicable access charges, and ensuring a thorough and diligent search for documents has been undertaken.

InfoGov may need to undertake additional search and retrieval activities in the circumstances outlined below:

- **Collated data** – s 17 of the FOI Act provides for the production of a document where the information sought does not exist in a discrete document at the date of the request, but such a document can be produced by the agency by use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information. If there is requirement to extract data or to collate information in order to respond to an IA request, InfoGov will source this information from SRAR as required
- **Forensic searching** - if there is a requirement to retrieve information held in Outlook accounts or network drives of staff who are no longer employed by the FWO, or staff on leave or otherwise unable to be contacted, InfoGov will source this information by engaging DESE to undertake forensic searches of applicable systems.

Making a decision

The Director Information Governance and the Assistant Director, Information Access are the authorised decision-makers for FOI requests under subsections 10A(1) and 23(1) of the FOI Act. InfoGov is committed to working in partnership with key internal stakeholders to assess and manage the risks and sensitivities associated with releasing information to individuals. Business units are best placed to identify and locate the information they hold. They are also best placed to provide context and assist

with understanding the complexity of release of information to individuals. All relevant stakeholders outlined in **Attachments H and I** will be kept informed of the progress of FOI requests.

FOI reviews

Attachment D is a checklist which outlines the process steps for FOI reviews.

An FOI applicant who is dissatisfied with the outcome of an FOI request, a decision to charge for access, or a decision to refuse to correct or update information about them may apply for internal review of the decision by the FWO. A third party to the FOI request, such as an affected business entity, can also apply for internal review if they disagree with the decision to grant access to documents they were consulted about.

The Executive Director Corporate Services will work with key internal stakeholders to appoint an IA Delegate to conduct an internal review within the statutory timeframes. InfoGov will provide information and support to the IA Delegate and all relevant stakeholders will be kept informed throughout the review process.

Amendment of personal information

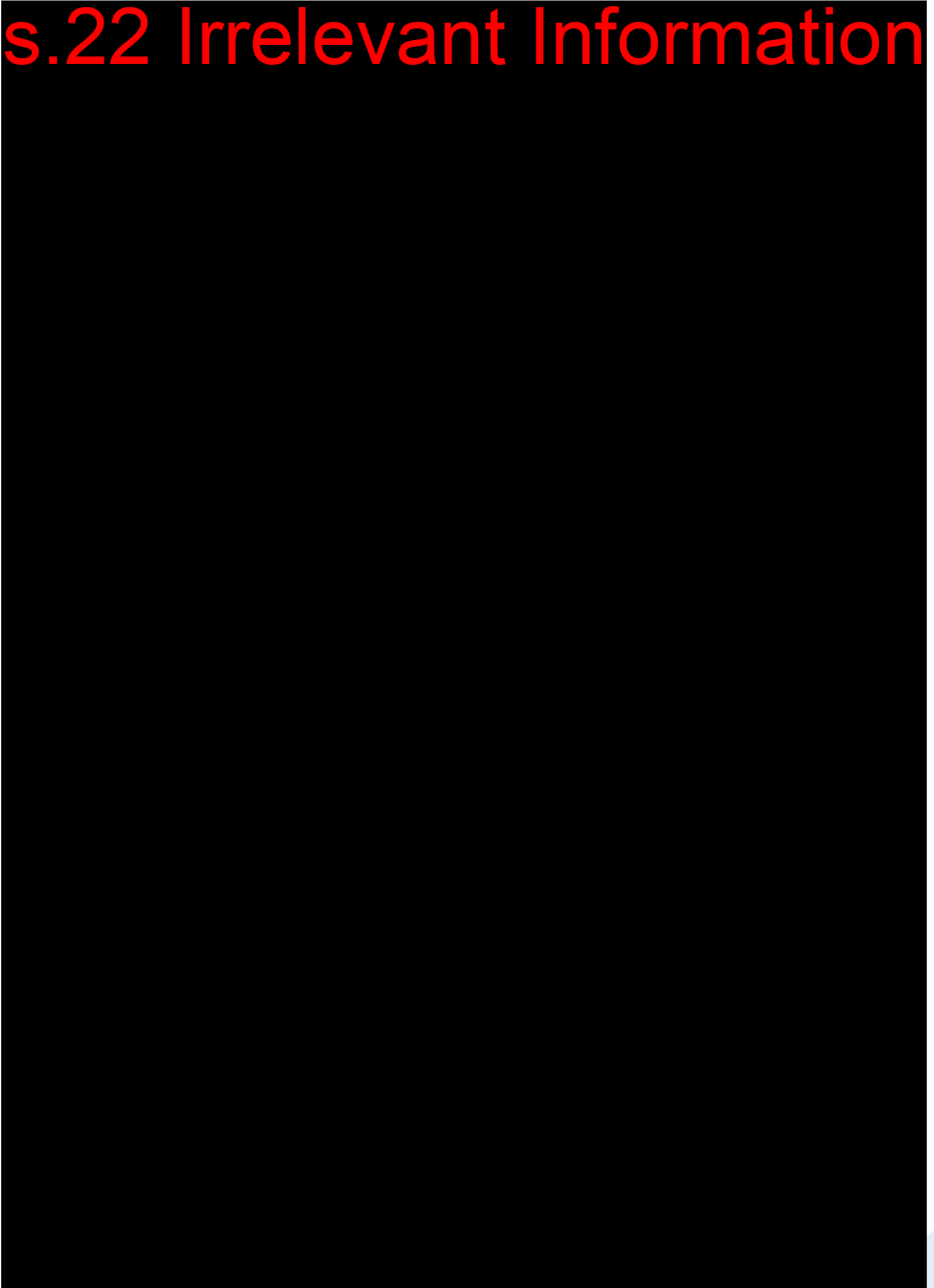
Section 48 of the FOI Act provides that a request to amend or annotate a document of an agency can be made in cases where:

- the document is a document of an agency or an official document of a minister containing personal information about the applicant
- the document is one to which the applicant has already been lawfully provided access, whether as a result of an access request under the FOI Act or as part of administrative release under the FW Act or PS Act
- the personal information in the document is incomplete, incorrect, out of date or misleading
- the personal information has been used, is being used or is available for use by the agency or minister for an administrative purpose.

InfoGov will consult as outlined in **Attachments H and I** prior to making a decision on a FOI request under section 48 of the FOI Act.

s.22 Irrelevant Information

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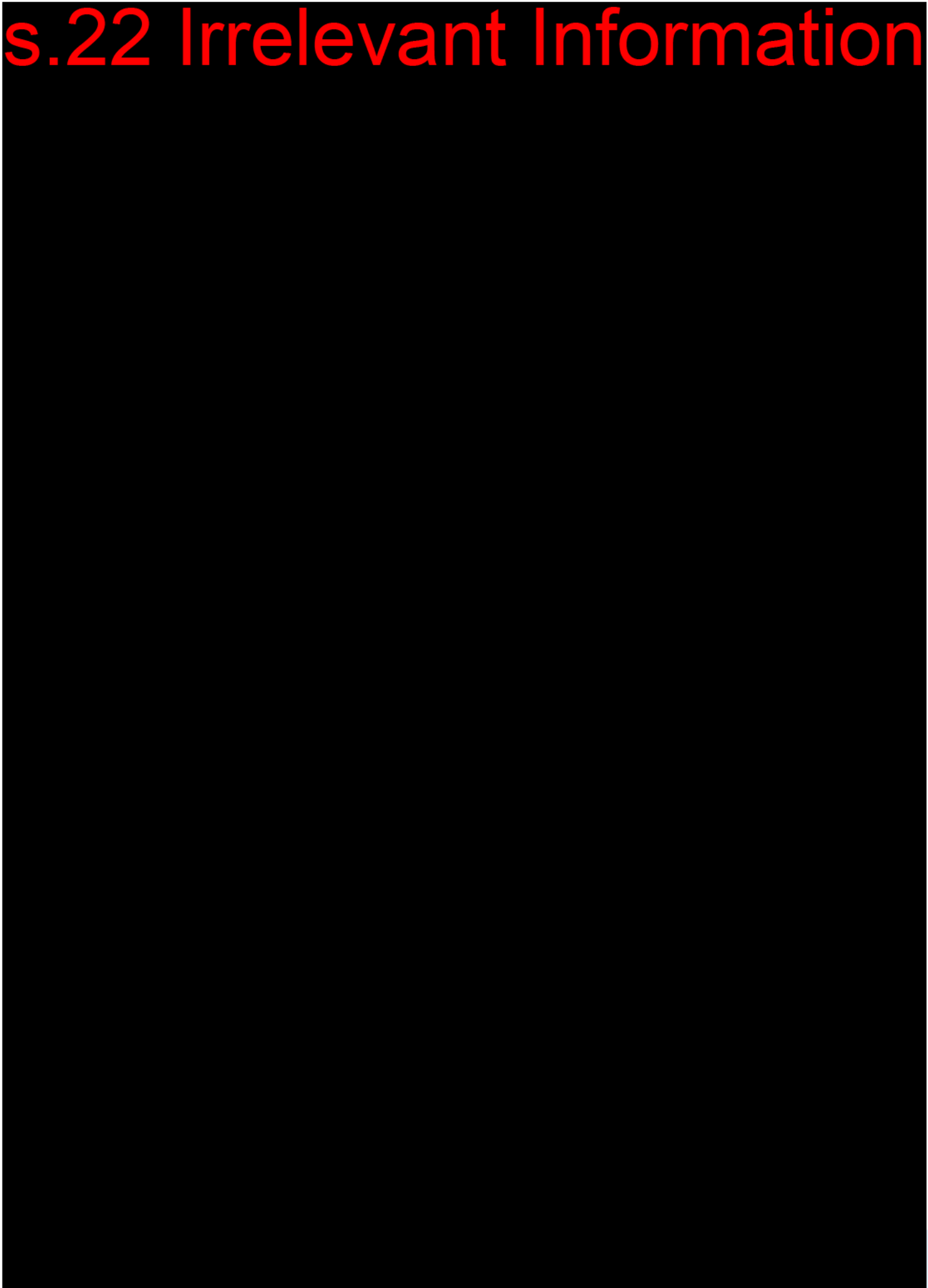


Attachment A: Role and Responsibilities Table

Team/Individual	Responsibility
Information Governance (InfoGov)	<ul style="list-style-type: none"> • primary contact point for FOI requests • support and assist the FWO to make decisions on release of information outside the FWO • consult and coordinate the search and retrieval of information held by the FWO • consult and coordinate the assessment of risk and the context in relation to FOI requests • liaise with applicants and affected third parties in relation to FOI requests • provide support and technical advice to IA Delegates • provide reports and analysis of FOI releases
Executive Director Corporate Services	<ul style="list-style-type: none"> • allocate FOI review requests to Delegates (as per Delegation instruments) and advise the Delegate's manager of the request • oversee the support and advice provided by InfoGov to the FWO
Business Units	<ul style="list-style-type: none"> • liaise with the IA Requestor in relation to requests for information release • coordinate search and retrieve activities • understand approval pathway applicable to the IA request
Key Stakeholders	<ul style="list-style-type: none"> • understand approval pathway applicable to the IA request and provide context to the IA Delegate
IA Delegates	<ul style="list-style-type: none"> • exercise their delegation in making decisions about access • undertake risk assessment for data use proposals • consult with all key stakeholders and business units to ensure that they make an informed decision on access • ensure their manager is updated throughout the process • escalate approval if required

Team/Individual	Responsibility
FWO Officer who releases the information	<ul style="list-style-type: none"> • is tasked with the collation and release of information, in accordance with the IA Delegate's decision • communicate with the applicant and affected third parties to ensure they understand the time frames and the decision • ensure that the appropriate approval has been obtained from the IA Delegate • redact any information correctly, remove the metadata and ensure material is in an appropriate format for release • record that the release has occurred and what information has been released • ensure their manager and the IA Delegate is updated through the process
People Services Team	<ul style="list-style-type: none"> • management and approval of all FWO employee related IA Requests
Strategic Research, Analysis & Reporting Team (SRAR)	<ul style="list-style-type: none"> • compile information where an IA Request is for information not already within a document and needs to be compiled from data the FWO holds, such as for figures or statistics • ensure they understand the approval pathway for the release of information
DESE Forensic Search Team	<ul style="list-style-type: none"> • undertake forensic searches where requested by the Director Information Governance
Legal Group	<ul style="list-style-type: none"> • provide or obtain legal advice in relation to information access requests under the PS Act, the FW Act, the FOI Act and the Privacy Act.

s.22 Irrelevant Information



Attachment C: Checklist for FOI Requests

	Step	Responsible
1.	Confirm receipt of request.	InfoGov Team
2.	Check validity of request under s.15(2) of FOI Act.	InfoGov Team
3.	Assist applicant to make a valid request (if not made validly).	InfoGov Team
4.	Record request and timeframes for response.	InfoGov Team
5.	Forward search and retrieval email and form to Director/s of relevant business unit/s and designated FWO contact officer/s as outlined in Attachments H and I .	InfoGov Team / FWO business units
6.	Undertake preliminary search and retrieval and inform InfoGov Team if scope appears unreasonable.	FWO business units
7.	Contact IA Requestor and negotiate scope if required.	InfoGov Team
8.	Inform business unit of renegotiated scope.	InfoGov Team/ FWO business units
9.	Undertake search and retrieval and forward unredacted documents to InfoGov Team and provide any contextual information to assist decision-making.	FWO business units
10.	Collate documents, prepare draft redactions and create schedule of documents.	InfoGov Team
11.	Identify if third party consultation required and send out consultation letters including applicant.	InfoGov Team
12.	Consult with stakeholders outlined in Attachments H and I .	InfoGov Team / FWO business units
13.	Identify if legal advice may be required and if so, make a request for legal advice to the Legal Group. For example, in circumstances where the access request is considered complex or strategically important for FWO.	Director Information Governance / InfoGov / Legal Group
14.	Draft Notice of Decision and prepare schedule of documents and document package.	InfoGov Team
15.	Forward Notice of Decision, schedule of documents and document package for legal review if required.	InfoGov Team / Legal
16.	Prepare final Notice of Decision, schedule of documents and document package (finalise redaction and metadata removal).	InfoGov Team
17.	Consult with stakeholders outlined in Attachments H and I .	InfoGov Team / FWO business units

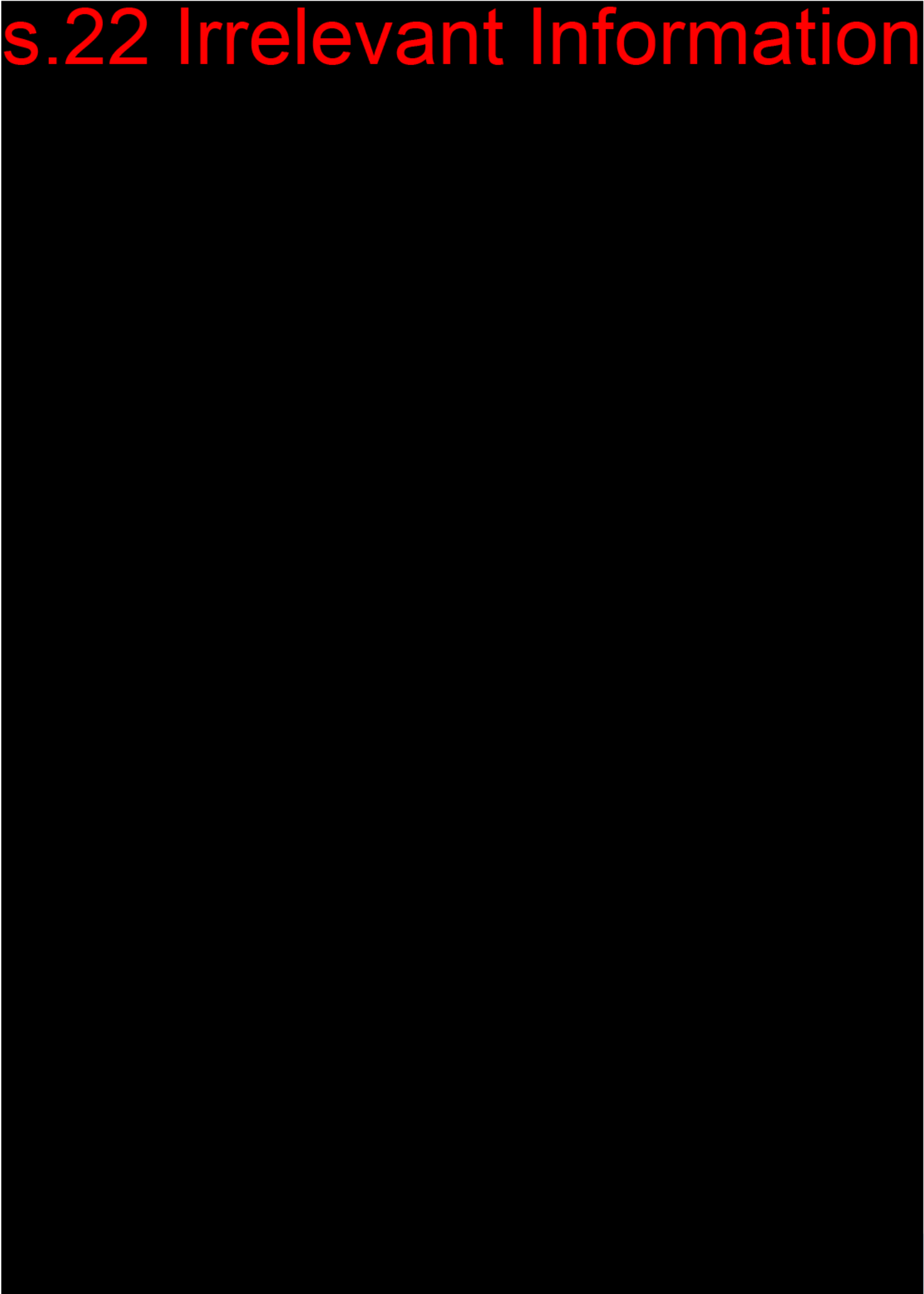
	Step	Responsible
18.	Issue Notice of Decision and schedule of documents and notification of impacted third parties.	InfoGov Team
19.	After review period, confirm with OAIC that no review application has been lodged and release document package.	InfoGov Team

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

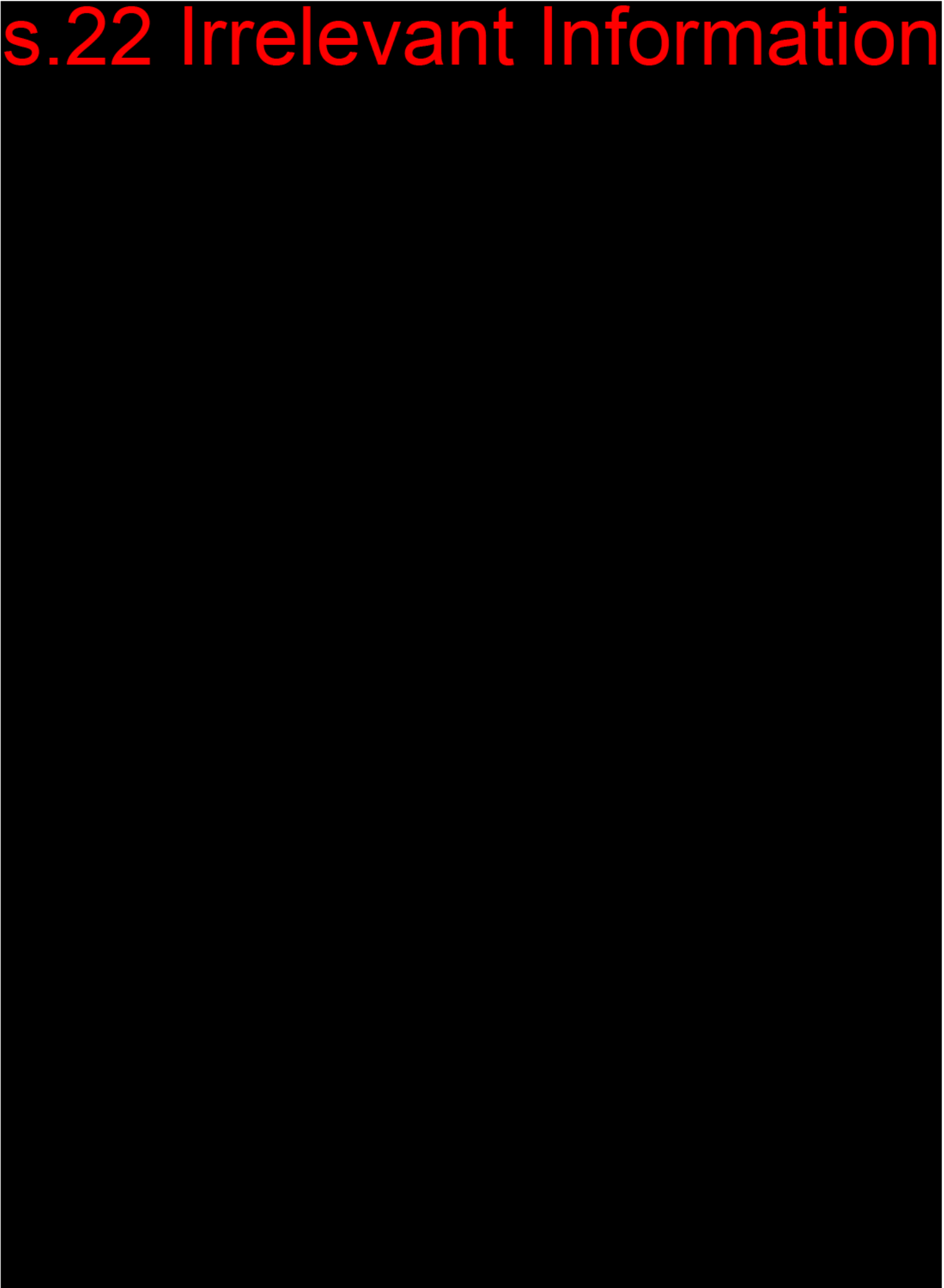
Attachment D: Checklist for FOI Internal Reviews

	Step	Responsible
1.	FOI review request received and recorded.	InfoGov Team
2.	Nominate IA Delegate for internal review.	Executive Director, Corporate Services
3.	IA Delegate receives background, supporting documentation and assistance with request.	InfoGov Team (with exception of original decision-maker) / IA Delegate
4.	IA Delegate consults with stakeholders outlined in Attachments H and I .	IA Delegate
5.	IA Delegate requests legal advice if required.	IA Delegate
6.	InfoGov Team emails Legal Group seeking legal advice on request	InfoGov Team / Legal Group
7.	Draft Notice of Decision and prepare schedule of documents and draft redactions within document package	IA Delegate / InfoGov Team (with exception of original decision-maker)
8.	Notification of stakeholders outlined in Attachments H and I .	InfoGov Team
9.	Forward Notice of Decision, schedule of documents and document package for legal review if required.	InfoGov Team
10.	Prepare final Notice of Decision and document package (finalise redaction and metadata removal).	InfoGov Team
11.	Release documents and Notice of Decision to applicant.	InfoGov Team

s.22 Irrelevant Information



s.22 Irrelevant Information



Attachment F: Search and Retrieval Email

Dear [NAME]

FOI Request

The FWO has received a request from [REQUESTER'S NAME] for access to documents under the *Freedom of Information Act 1982*.

[INSERT UNEDITED REQUEST TEXT HERE]

The Information Governance Team (InfoGov) seeks assistance from your business unit to locate documents falling within scope of the request and to provide details of the searches undertaken.

Actions now required:

Please take the following steps:

- Review the attached request and the information in the FOI Search and Retrieval Memo.
- Contact Information Governance as soon as possible to discuss the scope of the request if it is unclear or excessively broad.
- Advise Information Governance immediately if you are aware of any other business areas that may also hold relevant documents so additional searches can be arranged.
- Conduct a thorough search for and documents within scope of the request.
- Complete the Search File Note providing details of searches undertaken, and any noting any sensitive information and its location in the documents.
- Return relevant documents in unedited format to InfoGov for assessment.

The attached FOI Search and Retrieval Memo provides information that may be of assistance on conducting a search for documents under FOI.

Return date:

As FOI responses must be processed within specific timeframes under the FOI Act, please forward your area's search response by **COB [DATE]**.

Please contact Information Governance if an extension of time to complete searches is required.

Kind regards

Attachment G: Search and Retrieval Form

Freedom of Information Act 1982 - Search and Retrieval Memo

The FWO has received a request for access to documents under the *Freedom of Information Act 1982*. The Information Governance team (**InfoGov**) now seeks your assistance to locate relevant documents.

InfoGov provides the following information to assist you in conducting the search for documents and completing the Search File Note.

1. Conducting a search

Please search all possible locations where relevant documents might be located. *If you are aware of other business units where relevant documents may be located, please advise InfoGov **immediately** so further searches can be arranged.*

The definition of a document under the FOI Act is very broad and captures virtually any physical or electronic medium from which information can be extracted.

All reasonable steps should be taken to identify and locate documents. The Information Commissioner's FOI Guidelines at [\[3.89\]](#) note that agencies should undertake a reasonable search on a flexible and common-sense interpretation of the terms of the request. What constitutes a reasonable search will depend on the circumstances of each request and will be influenced by normal business practices in the agency's operating environment.

Locations to be searched could include, but are not limited to:

- Case Management Systems such as **s.22 Irrelevant Information**
- Digital recording systems such as **s.22 Irrelevant Information**
- Electronic documents saved on Microsoft Teams and GovTeams
- Electronic documents saved on computers, laptops and other electronic or portable media devices including iPads or tablets, flash drives, smartphones and apps
- Hardcopy files stored in safes, compactus, desk drawers and records warehouses
- Document Management Systems such as Network Drives and DocBank.

*Where it is evident that the number of documents and/or the time required to locate and retrieve them is likely to be voluminous or extensive, it is important that you advise InfoGov **immediately**. InfoGov will then contact the applicant to discuss ways to reduce the scope of their request before requesting a further search.*

Please contact InfoGov if you need assistance with search parameters, identification of relevant documents and/or interpreting the scope of a request. You can contact the team by email at foi@fwo.gov.au or via the Information Access Gateway on x24760.

2. Providing documents for assessment

InfoGov uses redaction software to mark-up exempt material. Hard copy documents should be scanned to .pdf files. (Please note - this does not apply to sound recordings.)

Documents must be provided in unredacted form. If your business unit has concerns about any of the material, please provide this contextual information to InfoGov. This information will be taken into account when the documents are assessed for applicable exemptions.

Relevant documents can be provided as attachments to emails. Larger files can be provided by way of file transfer.

3. Completing the search file note

A detailed record of all searches conducted must be provided to InfoGov. This information is used:

- in the calculation of access charges where applicable
- in advising applicants of the extent of the document search in the Notice of Decision, and
- to provide details of the processing of the request to the Information Commissioner in the event of a review or complaint.

The file note should specify:

- steps undertaken by business units to locate documents
- time taken to undertake the search and retrieval
- any sensitivities attached to the documents.

Where documents do not exist or cannot be located the efforts and extent of the search for the documents should also be recorded. If you are aware of documents that should or do exist, but which cannot be located please provide information as to why they cannot be located.

More Information:

More information about the FOI process can be found on the [Information Access intranet page](#), including what happens after the search and retrieval process is complete.

Search file note

This file note records the steps taken in locating documents within the scope of the FOI request.

FOI reference:	
Date response due:	
FOI applicant:	

FOI request:

Searches undertaken:

Searched	Location	Description of search/search terms used	Outcome/relevance
<input type="checkbox"/>	Case Management Systems: s.22 Irrelevant Information		
<input type="checkbox"/>	Records Management Systems: (Network Drives, DocBank)		
<input type="checkbox"/>	Computers, laptops or other portable media devices including iPads or tablets, flash drives, smartphones and apps (for example emails, text messages etc)		
<input type="checkbox"/>	Hardcopy files (for example safes, compactus, tambours, desk drawers, records warehouses)		
<input type="checkbox"/>	If applicable, backup systems (TSD involved)		
<input type="checkbox"/>	Other: (SRAR Search Results)		

Additional comments (e.g. interpretation of the scope of the FOI request, additional details of searches conducted, reasons as to why no documents found):

Records of the above searches have been created and retained.

Time spent for search and retrieval:	
Search completed by:	
Position title:	
Date completed:	
Search minute completed by:	
Reasons why you were nominated to complete the search minute (e.g. you are the responsible case officer; you have particular knowledge of the business practices of the agency):	

Documents released by the Fair Work Ombudsman
Under the Freedom of Information

Attachment H: Consultation and Delegations Table for release to employees and employers and their representatives

Category of document	Consult	Decision-Maker (administrative release)	Decision-Maker (FOI)	Exception
Documents given to the FWO by the employee, employer or a third party as part of a request for assistance and internal FWO communications relating to same	Assistant Director and Director in relevant business unit	EL1, EL2 or SES Band 1	Assistant Director, Information Access, Director Information Governance	Where requestor has sought independent review, filed a complaint or written to the Minister, Director, Assurance and Director and SES Band 1 of business unit must be consulted. Decision-maker does not change.
Internal policies, procedures and guidelines	Assistant Director and Director in relevant business unit	EL1, EL2 or SES Band 1	Assistant Director, Information Access, Director Information Governance	
Documents which do not relate to request for assistance or litigation and enforcement activities	Director and SES Bands 1 and 2 in relevant business unit	EL1, EL2 or SES Band 1	Assistant Director, Information Access, Director Information Governance	Where requestor has sought independent review, filed a complaint or written to the Minister, FWO, SES Bands 1 and 2, Directors must be consulted Decision maker must be FWO, SES Band 1 and 2 and Directors in relevant business unit.
Documents relating to FOI processing	Director and SES Bands 1 and 2 in relevant business unit	Must lodge FOI request	Director Information Governance or Executive Director Corporate Services	

Category of document	Consult	Decision-Maker (administrative release)	Decision-Maker (FOI)	Exception
Documents relating to a matter with a media profile or likely to have a media profile	Director Media and Director and SES Bands 1 and 2 in relevant business unit	EL2 or SES Band 1	Director Information Governance or Executive Director Corporate Services	Where requestor has sought independent review, filed a complaint or written to the Minister, FWO, SES Bands 1 and 2, Directors and Director Assurance must be consulted. Decision-maker does not change.
Documents relating to FWO's litigation and enforcement activities	SES Band 1 and Directors in relevant business unit	EL2 or SES Band 1	Director Information Governance or Executive Director Corporate Services	Where requestor is an employee covered by litigation and enforcement activities, a request may be made outside of FOI Act. Director and SES Bands 1 and 2 in relevant business areas must be consulted. Decision maker must be EL1, EL2 or SES Band 1.
Personnel records of FWO employees	No requirement	Director People Services or Executive Director People	Director, Information Governance or Executive Director, Corporate Services	Where requestor has sought independent review, filed a complaint or written to the Minister, FWO, SES Bands 1 and 2, Directors must be consulted. Decision maker must be FWO, SES Band 1 and 2 and Directors in relevant business unit.

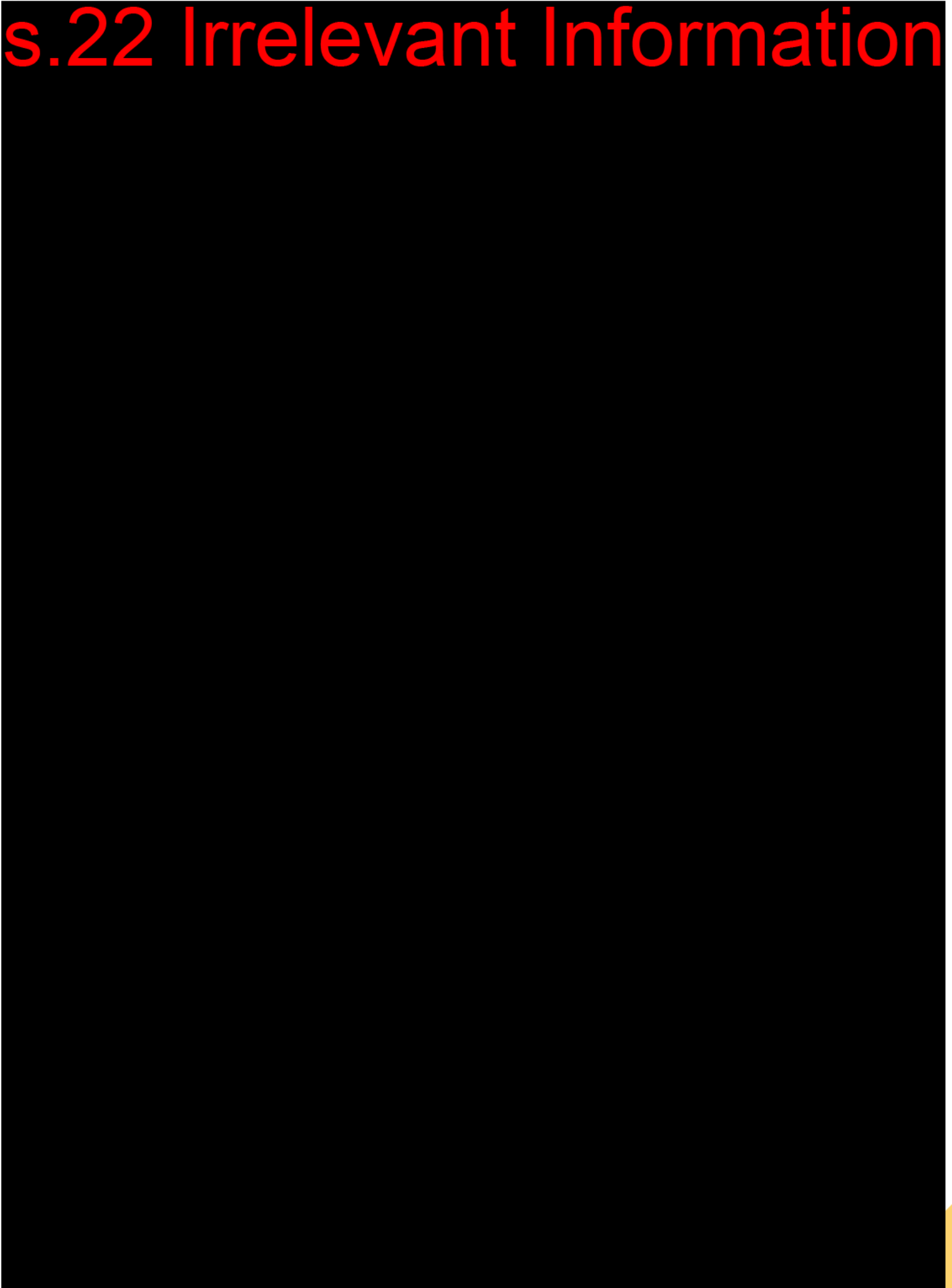
Attachment I: Consultation and Delegations Table for release where request is not an employee, employer, or their representative

Category of Requestor	Consult	Decision-Maker (discretionary release)	Decision-Maker (FOI)	Exception
Member of the public	Director and SES Bands 1 and 2 in relevant business units	EL1, EL2 or SES Band 1	Assistant Director, Information Access or Director, Information Governance	Where request is for documents relating to matter with media profile or likely to have media profile, FWO's litigation and enforcement activities, or personnel records of FWO employees, FWO, SES Band 1 and 2 and Director Assurance and Directors in relevant business unit must be consulted. Decision-maker must be EL2 or SES Band 1.
Academic staff, researchers and students	Director and SES Bands 1 and 2 in relevant business unit	EL1, EL2 or SES Band 1	Assistant Director, Information Access or Director, Information Governance	Where request is for documents relating to matter with media profile or likely to have media profile, FWO's litigation and enforcement activities, or personnel records of FWO employees, FWO, SES Band 1 and 2, Director Assurance and Directors in relevant business unit must be consulted. Decision-maker must be EL2 or SES Band 1. Where request is a data use proposal must be managed under

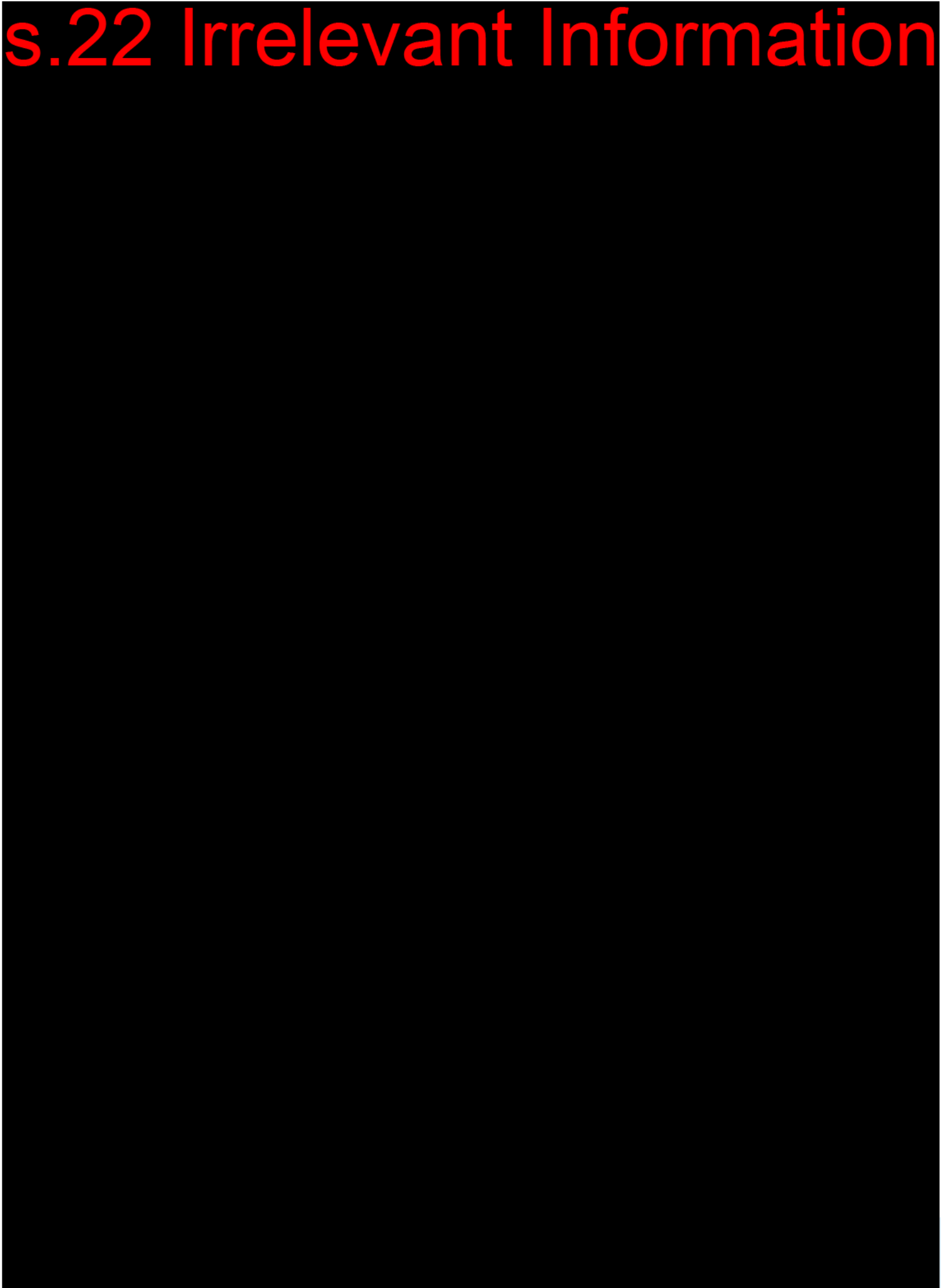
Category of Requestor	Consult	Decision-Maker (discretionary release)	Decision-Maker (FOI)	Exception
				the approval pathway outlined in Attachments I and J.
Registered organisation, politician, journalist, interest group, etc.	FWO, SES Band 1 and 2 and Directors in relevant business unit	EL2 or SES Band 1	Director, Information Governance or Executive Director, Corporate Services	

Documents released by the Fair Work Ombudsman
Under the Freedom of Information Act

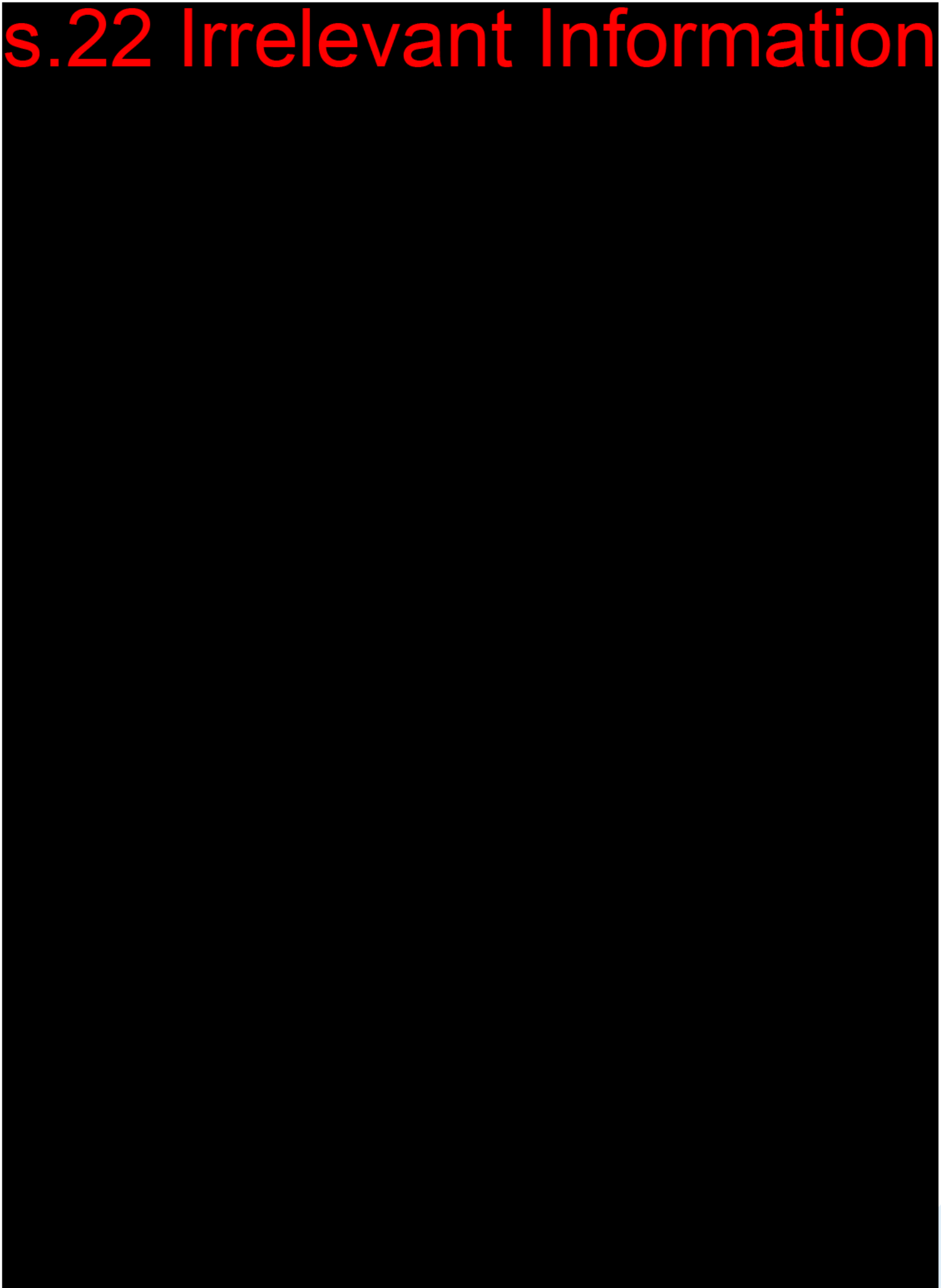
s.22 Irrelevant Information



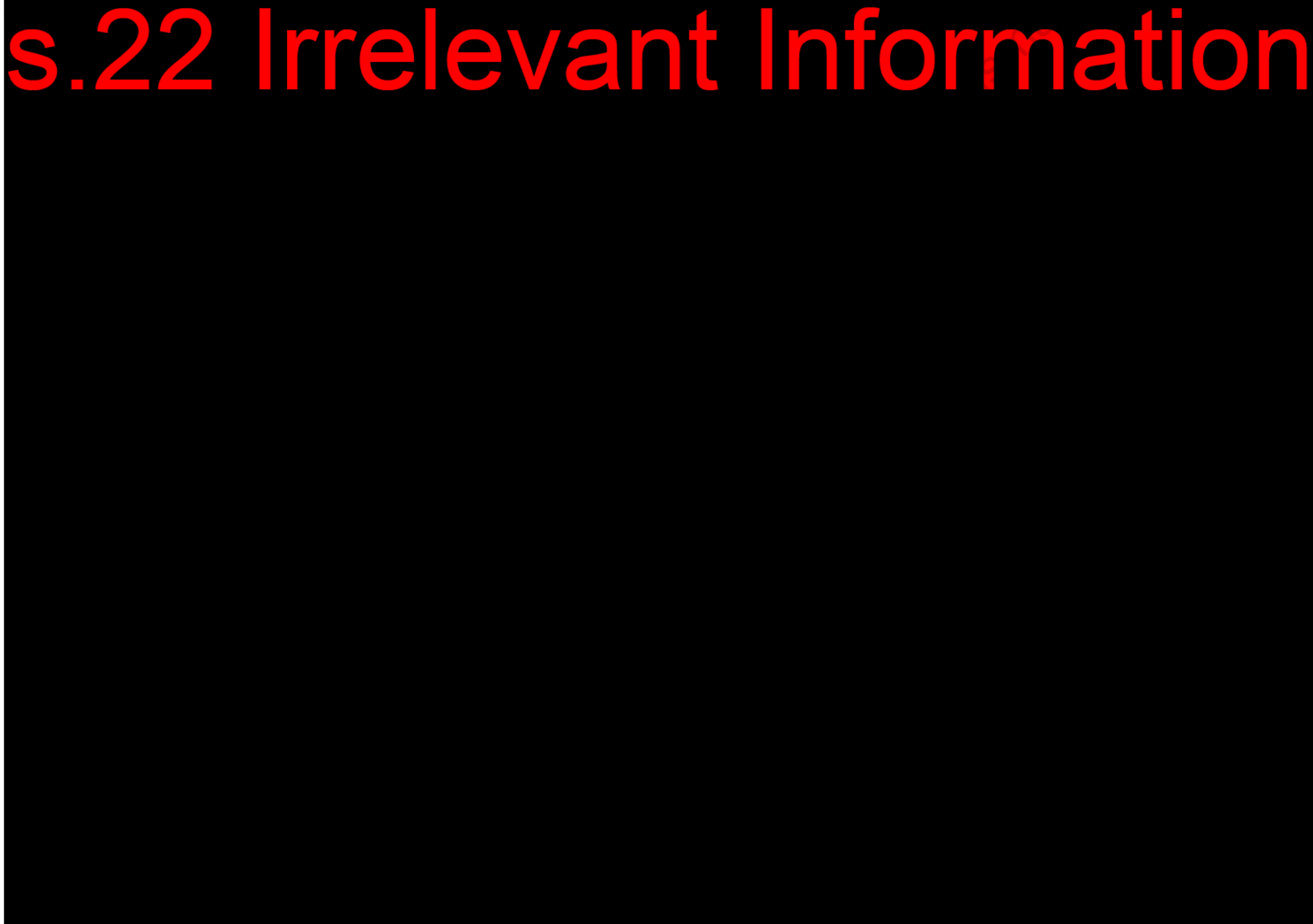
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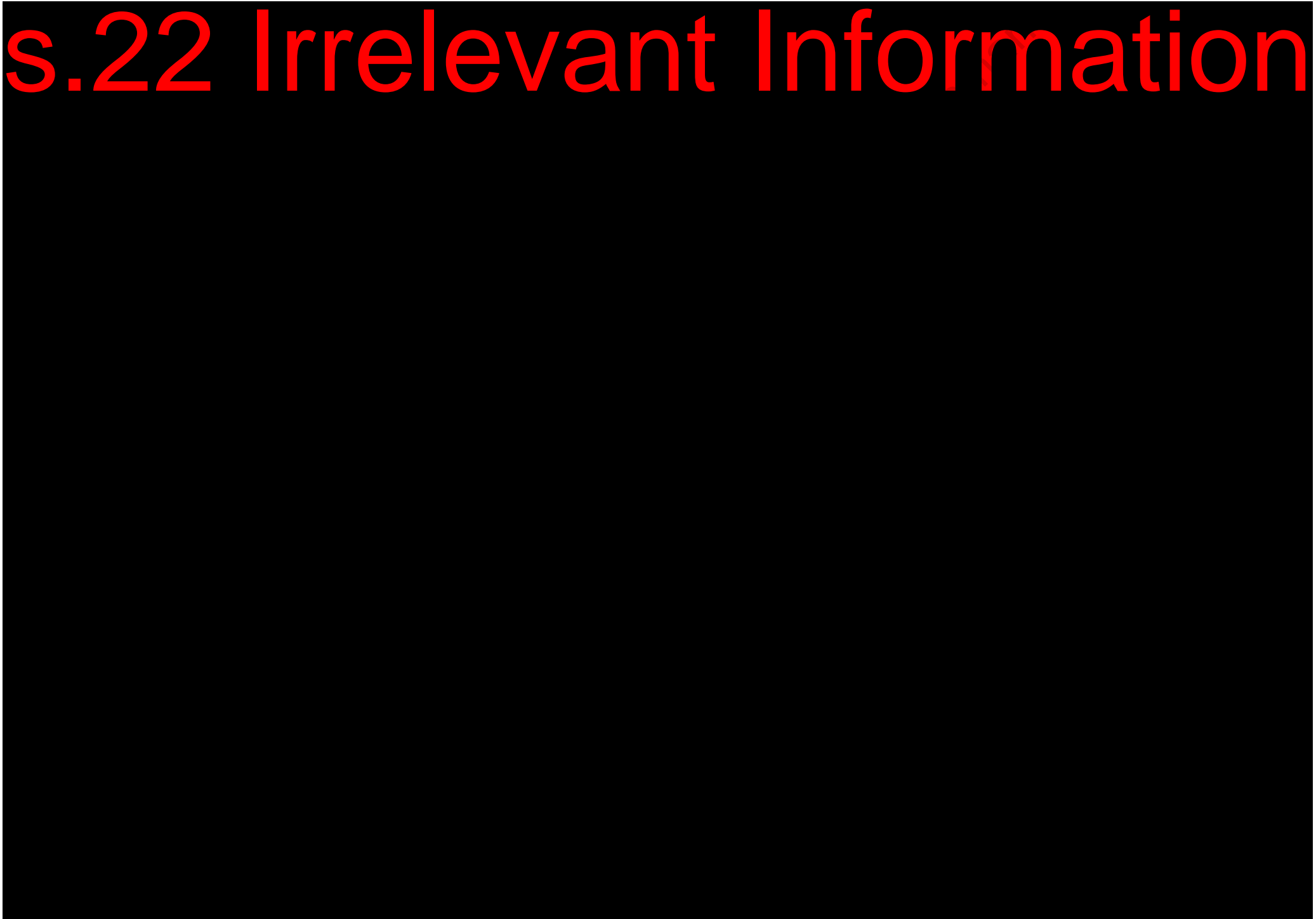
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Information access requests

Published 13/08/2024

Navigation: Sensitive and complex issues – Information access requests

Discussing or releasing information

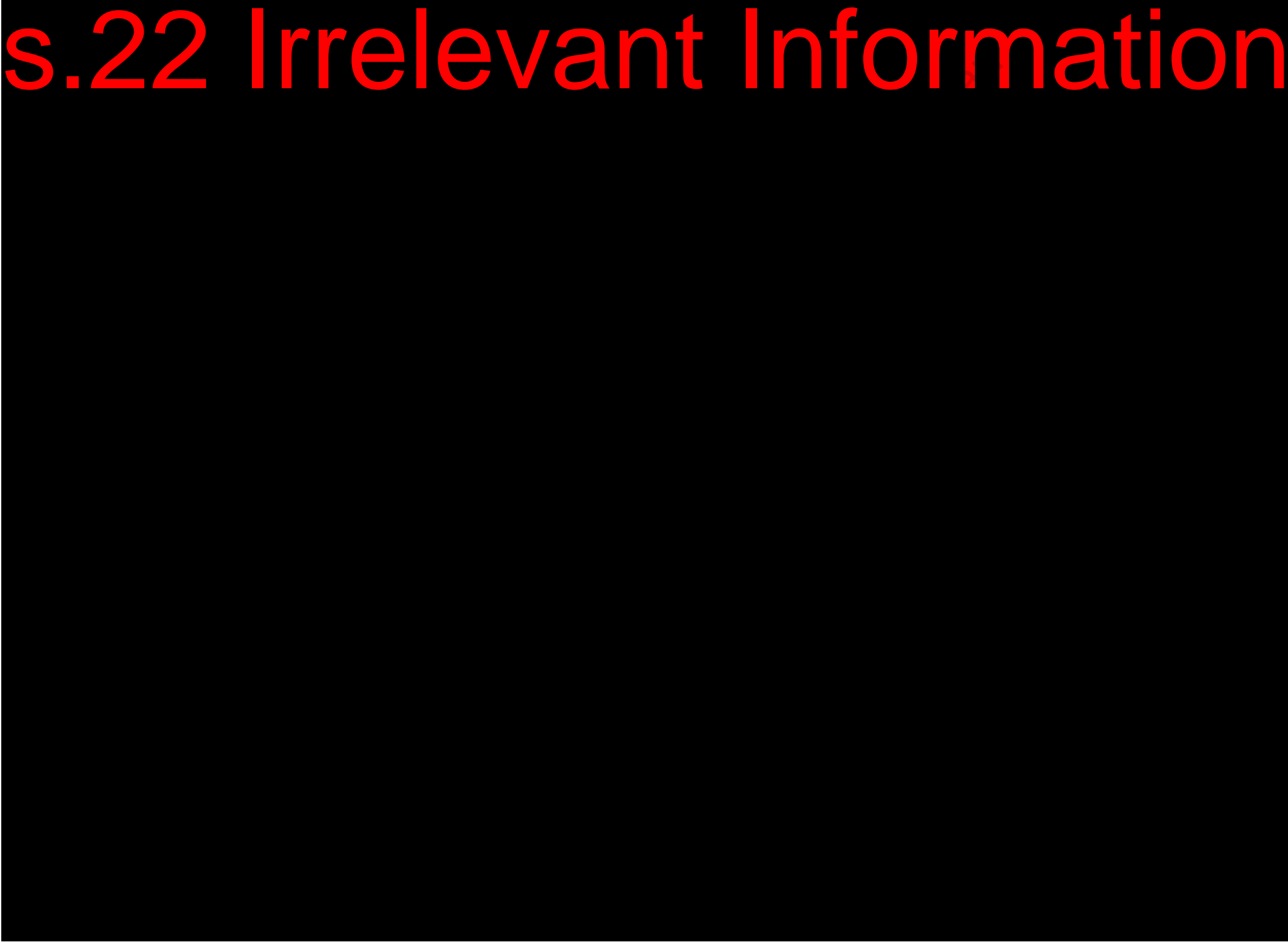
During the enquiry or Request for Assistance process, a member of the public can ask for information held by the OFWO. The [FWO Information Access Policy Framework](#) sets out the principles underpinning the OFWO's approach to information release and provides guidance on how to approach these scenarios. More information about both types of requests is available on [Information access](#) and on our [website](#).

Request Type	What is it?	What it might sound like
Information Access Request (Section 718(2) of the FW Act)	A quick and informal release of information made at the OFWOs discretion.	A customer has a general query regarding information held by the OFWO.
Freedom of Information (FOI)	A formal FOI request for access to documents which is made under the FOI Act.	A customer specifically indicates they wish to make a FOI request.

Customers should **not** be encouraged to put their request in writing, or to make a Freedom of Information request to the FOI Team at this stage. All requests require consideration and consultation as outlined below

How to Respond to Requests

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s.22 Irrelevant Information

Releasing information

When actioning Information Access/FOI requests for the Customer Services Branch, the [Customer Requests Team](#) may provide call recordings, enquiry/RfA details (including any emails, notes, or documents) or call interaction notes for external release. In these circumstances, the following principles will be applied to each enquiry:

- Was the information provided accurate?
- What was the level of customer experience?
- What areas of improvement can be identified?
- What is the risk to the Agency?
- Where appropriate, this information is collated and provided to the relevant Assistant Director and Director for consideration.

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[Return to search](#)

K260933

Freedom of Information Act and the FWO's Information Access Policy

This article provides information about the:

- FWO's Information Access Policy (**IAP**)
- FWO's obligations under the *Freedom of Information Act 1982* (**FOI Act**)
- interaction between the IAP and FOI Act and how these interact
- call handling procedure to be used when a customer requests access to documents.

The FOI Act

The FOI Act provides people with the right to:

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- access documents (with the exception of exempt documents) held by Australian government agencies and Ministers
- ask an agency to change or annotate a record that relates to them, if the record is incomplete, out of date, incorrect or misleading
- seek a review of an agency's decision made in relation to a freedom of information (FOI) request.

It also requires Commonwealth agencies to proactively publish certain information on their website, such as:

- organisation structure
- functions and powers
- statutory appointments
- kinds of decisions they make
- annual reports
- arrangements they have for public involvement in their work
- documents they hold and how you can access them
- rules and practices used to make decisions.

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The FWO's Information Access Policy

The FWO's [Information Access Policy](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.fairwork.gov.au%2Fsites%2Fdefault%2Ffiles%2Fmigration%2F725%2Finformation-access-policy.docx&wdOrigin=BROWSELINK) (<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.fairwork.gov.au%2Fsites%2Fdefault%2Ffiles%2Fmigration%2F725%2Finformation-access-policy.docx&wdOrigin=BROWSELINK>) (IAP) is available to members of the public on the '[Accessing our information](https://www.fairwork.gov.au/about-us/accountability/accessing-our-information)' (<https://www.fairwork.gov.au/about-us/accountability/accessing-our-information>)' page of the FWO's website (<https://www.fairwork.gov.au/>).

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and FWO's '[Managing Information Access Requests \(Individuals and Non-Government Entities\)](https://sharedservicescentre.sharepoint.com/sites/FWO-Doc-B24/information_access-Intranet/Publications/Managing%20Information%20Access%20Requests%20(Individuals%20and%20Non-Government%20Entities)%20Policy.pdf)' ([https://sharedservicescentre.sharepoint.com/sites/FWO-Doc-B24/information_access-Intranet/Publications/Managing Information Access Requests \(Individuals and Non-Government Entities\) Policy.pdf](https://sharedservicescentre.sharepoint.com/sites/FWO-Doc-B24/information_access-Intranet/Publications/Managing%20Information%20Access%20Requests%20(Individuals%20and%20Non-Government%20Entities)%20Policy.pdf))' policies found on the FWO's [intranet](https://sharedservicescentre.sharepoint.com/sites/fwo-services/SitePages/Information%20access.aspx) ([https://sharedservicescentre.sharepoint.com/sites/fwo-services/SitePages/Information access.aspx](https://sharedservicescentre.sharepoint.com/sites/fwo-services/SitePages/Information%20access.aspx)), site. These support FWO staff to make informed and consistent decisions on information access.

The IAP is based on three Information Access Principles:

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– **Principle 1:** We will release information when we can: If we cannot provide access to the requested information, we will explain our decision and the person’s right to review.

– **Principle 2:** We will communicate and be responsive: We will ensure our processes for providing access to information are straightforward, timely and easy for people to understand. When a formal FOI request is needed, we will provide information in the most efficient and least costly way.

– **Principle 3:** We respect people’s privacy and confidentiality: We will maintain their privacy and confidentiality in line with our obligations under the [Privacy Act](#) , the FWO’s [Privacy Policy](#) (<https://www.fairwork.gov.au/website-information/privacy>) and other legislation.

The IAP states that when a customer asks for access to documents, we must first consider whether they can be released under the IAP without requiring the person to make a formal application under the FOI Act. It is only if the documents cannot be released under the IAP that an application under the FOI Act will be necessary. Releasing documents outside of the FOI Act is quicker and more cost effective for the FWO and provides better and more responsive service to our customers.

The IAP tells members of the public to contact the person they have been dealing with if they want to request information from us. If the person has had no previous dealings with the FWO,

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they should send an email to foi@fwo.gov.au (<mailto:foi@fwo.gov.au>).

Call handling procedure in relation to requests for access to documents

Members of the public can ask for information held by the FWO. [How to Respond to Requests](https://sharedservicescentre.sharepoint.com/sites/fwo-pacsr/SitePages/Freedom-of-information.aspx#how-to-respond-to-requests) (<https://sharedservicescentre.sharepoint.com/sites/fwo-pacsr/SitePages/Freedom-of-information.aspx#how-to-respond-to-requests>) in PACSR outlines the process Advisers and Assessment Officers should follow when a request is made.

Office of the Australian Information Commissioner

The Office of the Australian Information Commissioner (OAIC) exercises FOI and privacy functions and powers by:

- reviewing FOI decisions
- issuing FOI guidelines
- investigating agencies' actions when responding to FOI requests
- declaring an applicant to be a vexatious applicant (in cases of abuse of process and manifestly unreasonable requests)

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- extending the time for processing FOI requests (for complex and voluminous requests) and
- granting exemptions from publication requirements.

If a customer is dissatisfied with the FWO's decision in relation to a FOI request, refer them to the Information Governance team (foi@fwo.gov.au (<mailto:foi@fwo.gov.au>)).

NOTE: The FWO charges customers for access to documents requested under the FOI Act that do not contain their personal information. For more information about these charges, please visit the '[Accessing our Information](https://www.fairwork.gov.au/about-us/accountability/accessing-our-information)' (<https://www.fairwork.gov.au/about-us/accountability/accessing-our-information>)' page of our website.

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Freedom of Information Act 1982 (Cth)

APPROVAL AND AUTHORISATION

I, Anna Booth, the Fair Work Ombudsman appointed under section 687 of the *Fair Work Act 2009 (Cth)* (**FW Act**) and principal officer within the meaning of the *Freedom of Information Act 1982 (Cth)* (**FOI Act**), revoke all previous approvals and authorisations made under the FOI Act relating to the Office of the Fair Work Ombudsman (**FWO**) and approve the following arrangements under subsections 10A(1) and 23(1) of the FOI Act:

Freedom of information requests

1. Subject to the direction below, I authorise each person who from time to time occupies, performs the duties of, or holds the following positions within the FWO to make decisions in respect of requests made to the FWO under the FOI Act:
 - Executive Level 1 - within the Information Governance team
 - Executive Level 2 - within the Information Governance team
 - SES Band 1
 - SES Band 2

Information Publication Scheme

2. In respect of the FWO's obligations under Part II of the FOI Act, I authorise:
 - a. The Executive Level 2 officer within the Information Governance team to perform or exercise the powers and functions under Part II of the FOI Act (information publication scheme).

Directions

3. In respect of applications for internal review made pursuant to Part VI of the FOI Act, I direct that:
 - a. The officer appointed to conduct the internal review must be at least one classification level higher than the original decision maker, at the time of issuing the notice of decision on internal review.
 - b. Where this is not reasonably practicable, the officer appointed to conduct the internal review must be at least the same classification level as the original decision maker, at the time of issuing the notice of decision on internal review.
4. In respect of the FWO's obligations under Part II of the FOI Act, I direct that:
 - a. The Executive Level 2 officer within the Information Governance team is responsible for the FWO's compliance with the information publication scheme, including that the information published by the FWO under the scheme is kept accurate, up-to-date and complete.

5. In respect of documents or information obtained under a FWO notice issued pursuant to section 712AB of the FW Act I direct that:

- a. Before making a decision, exercising a power, or performing a function under the FOI Act related to disclosure of documents or information produced or given by a person in compliance with a FWO notice, the authorised officer must consult with a person who has the power to apply for a FWO notice under section 712AA of the FW Act about the proposed decision, exercise of power or performance of a function.
- b. This direction does not apply to those authorised officers who are officers with the power or delegation to apply for a FWO notice under section 712AA of the FW Act.

This instrument takes effect on and from the date of signing.

Dated: 4/9/23



Anna Booth
Fair Work Ombudsman

Documents released by the Fair Work Ombudsman
Under the Freedom of Information