

POLICY : 1.6 Privacy

PROCEDURE: 1.6.1 Freedom Of Information

Approval By: Controlled Documents Committee **Approval Date:** 14/02/2018
Document Owner: Freedom of Information & Privacy Officer **Next Review Date:** 14/02/2021

Purpose This policy is to ensure QEC comply with the Victorian Freedom of Information Act 1982.

Target Audience All QEC Employees

Definitions
 FOI – Freedom of Information
 FOI Officer – an organisation is required to have a dedicated FOI Officer to process any FOI request. Systems and Risk Manager is appointed person at QEC
 FOIPS – Freedom of Information Professional Standards
 Clinical Worker – Clinical staff member relevant to requested information register
 Electronic database – FOI Register log recording all FOI and subpoena requests
 Intake – Admission, commencement of a clinical program

Overview The Victorian Freedom of Information Act gives consumers the right to request information held by Public Hospitals. The Act gives consumers the right to access documents about their personal affairs and the activities of government agencies along with the right to request that incorrect or misleading information held by QEC about them be amended or removed. QEC utilises the Freedom of Information Professional Standards (FOIPS) to assist in delivering their FOI responsibilities.

Freedom of Information Professional Standards

Principle	Standard	
1	A	Access to public sector information
	B	Right of access Responsibilities of Agencies
2	C	Assessing and determining applications
	D	Assistance to applicants
	E	Requirements for a valid request
	F	Identification of relevant documents
	G	Timely decision making Decisions
3	H	Reviews and appeals
	I	Applicant's right of review Agency requirements
4	J	Complaints
	K	Assistance to the FOI Commissioner Timely responses
5	L	File management and reporting
	M	Records management
	N	Annual reporting Part II Information Statement
6	O	Education
		Responsibilities of Principal Officers

Access

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PROCEDURE: **1.6.1 Freedom Of Information**

QEC ensures all clients are aware at intake of their right to request information under the FOI Act.

Procedure and application forms are available to clients and the public through the QEC website, email and hard copy. Application forms are available in Appendix 1.

Assessing and determining applications

QEC endeavours to support all applicants in their requests for information. Procedures for processing requests are available to all staff in Appendix 2.

Costs

Application fees in line with the FOI Act are requested upon application. Whilst QEC endeavours to minimise further costs, additional fees resulting from archiving retrieval and copying documents may occur for the applicant.

Charges for processing are listed in Table 1, FOI Guidelines:

Search & retrieval - \$15 per hour

Review – 1-5 hours NIL, >5 hours \$20 per hour

Photocopy – \$0.10 per page

Inspection – supervision by QEC of an applicant reviewing/reading document/s \$6.25 per half hour

Delivery – actual cost of registered express post

Fees may only be waived on an individual request by the CEO within 30 days of application, or application fee remains the only charge. (Section 29(4),(5), (6))

Applicant has 30 days from being notified of extra costs before processing, to consent or withdraw. If they have not answered within 30 days, the application is taken as withdrawn. (Section 29(2))

All fees must be paid prior to completion of the application (Section 11A, regulation 11)

Exemptions

Applicants have the right to request documents, however access may be denied due to exemptions stated in the Act. QEC undertakes every attempt to ensure that decisions are made with the clients best Interest and rights in mind. Exemption outcomes are given full consideration with applicants informed.

Guidelines of document exemptions are detailed in Appendix 2 for supporting reviewers in processing applications.

Reviews and appeals

QEC's procedure ensures request decisions are made in a timely manner, with transparency of outcomes provided to all applicants.

QEC is aware and supports applicants right to request a review and appeal decisions.

Complaints

QEC will support staff in cooperating with all third party requests or appeal processes.

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File management and reporting
 QEC systems and procedures facilitate the ability to locate relevant documents in a timely manner and provide documents in the public domain through the Information Publication Scheme. (Appendix 2)

Education

QEC ensures relevant staff receive appropriate training to undertake their responsibilities and that guidance material is available and current.

Related Documents

- Freedom of Information Professional Standards
- FOI Request Register (G/admin services/medical records/FOI requests (Year)
- Appendix 1 FOI Access Request Form
- Appendix 2 Processing FOI Requests
- Appendix 3 Finance Extra Fees Request
- New Consolidation FOI Guidelines March 2014
- Guide to Section 30 internal Working Documents – OVIC
- Checklist process for Subpeona Files (G:\ADMIN\Program guidelines, instructions\ADMISSIONS\FOI & SUBPOENA)

Key Legislation, Acts and Standard

HUMAN SERVICES STANDARDS

1. Empowerment	1.1	People understand their rights and responsibilities	Y
	1.2	People exercise their rights and responsibilities	Y
2. Access & Engagement	2.1	Services have a clear and accessible point of contact	
	2.2	Services are delivered in a fair, equitable and transparent manner	
	2.3	People access services most appropriate to their needs through timely, responsive service integration and referral	Y
3. Wellbeing	3.1	Services Adopt a strengths-based and early intervention approach to service delivery that enhances peoples wellbeing	
	3.2	People actively participate in an assessment of their strengths, risks, wants and needs	
	3.3	All people have a goal-orientated plan documented and implemented	
	3.4	Each person’s assessment and plans are regularly reviewed, evaluated and updated. Exit/transition planning occurs as appropriate	
	3.5	Services are provided in a safe environment for all people, free from abuse, neglect, violence and/or preventable injury	
4. Participation	4.1	People exercise choice and control in service delivery and life decisions	

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	4.2	People actively participate in their community by identifying goals and pursuing opportunities including those related to health, education, training and employment	
	4.3	People maintain connections with family and friends, as appropriate	
	4.4	People maintain and strengthen connection to their Aboriginal or Torres Strait Islander culture and community	
	4.5	People maintain and strengthen their cultural, spiritual and language connections	
	4.6	People develop, sustain and strengthen independent skills	

EQUIP6

1. Clinical	1.1	Consumers/patients are provided with safe, high quality care throughout the care delivery process	
	1.2	Consumers/patients and communities have access to health services and care appropriate to their needs	
	1.3	Appropriate care and services are provided to consumers/patients	
	1.4	The organisation provides care and services that achieve effective outcomes	
	1.5	The organisation provides safe care and services	
	1.6	The governing body is committed to consumer/patient participation	
2. Support	2.1	The governing body leads the organisation in its commitment to improving performance and ensures the effective management of corporate and clinical risks	
	2.2	Human resources management supports high quality health care, a competent workforce and a satisfying working environment for staff	
	2.3	Information management systems enable the organisations goals to be met	
	2.4	The organisation promotes the health of the population	
	2.5	The organisation encourages and adequately governs the conduct of research to improve the safety and quality of health care within organisations	
3. Corporate	3.1	The governing body leads the organisations strategic direction to ensure the provision of quality, safe services	
	3.2	The organisation maintains a safe environment for employees, consumers/patients and visitors	

CHILD SAFE STANDARDS

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1	Strategies to embed an organisational culture of child safety, including through effective leadership arrangements	
2	A child safe policy or statement of commitment to child safety	
3	A code of conduct that establishes clear expectations for appropriate behaviour with children	
4	Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel	
5	Processes for responding to and reporting suspected child abuse	
6	Strategies to identify and reduce or remove risks of child abuse	
7	Strategies to promote the participation and empowerment of children	

**Other Key Legislation,
Acts and Standards**

- Victorian Freedom of Information Act 1982
- Freedom of Information Amendment Act 2012
- Freedom of Information Professional Standards
- Health Records Act

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1.8.1 Appendix 1 - FOI Access Request Form

HOSPITAL RECORD	
I wish to obtain the following information (Please list the information required)	
Approximate year of Contact with QEC	
ACCESS TO QEC RECORDS (please supply Client/Patient details)	
Surname	
Given Name	
Date of Birth	
Street Address	
Email Address	
Home Telephone	
Work Telephone	
Mobile Telephone	
REQUESTOR DETAILS (if you are not the client requesting details)	
Company Name	
Surname	
Given Name	
Date of Birth	
Street Address	
Email Address	
Home Telephone	
Work Telephone	
Mobile Telephone	
Relationship to Client	

PLEASE NOTE: All applications must be accompanied with PROOF OF IDENTITY for the REQUESTOR

- One photocopy of photo identification:
 - > Driver's license; or
 - > Passport
- If Photo ID is not available then 3 other forms of ID are required i.e.
 - > Medicare Card
 - > Birth Certificate
 - > Credit Card or EFTPOS Card (or any other card that provides your name)
- Mandatory FOI application fee of \$28.40

Please note this application will not proceed without this payment. You will be notified if the photocopying fee exceeds \$28.40.

- | | |
|--|----------|
| 1. Is the client deceased? | YES / NO |
| If YES, are you the next of kin? | YES / NO |
| 2. In the event that the client is unable to make an informed decision about him/herself, are you the Medical Power of Attorney/Legal Guardian? | YES / NO |
| If YES, have you attached certified copy evidence? | YES / NO |
| If NO, have you attached the client's written permission to obtain information on their behalf? | YES / NO |

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1.8.1 Appendix 2- FOI Processing Requests

- All requests for information under the Freedom of Information Act must be written and forwarded to Administration Support including photo and signature proof of identity with the address where information will be forwarded and current application fee payment. Appendix 1 - Freedom of Information Access Request can be downloaded from QEC website: www.qec.org.au, or sent on request from Administration Support.
- Once QEC receives a completed FOI Access Request (Appendix 1) with the relevant ID attached, the request is logged in the FOI Register, initiating the 45 days to complete the process, or due date for court subpoena. (If ID is not received, the application should be referred to the FOI Officer for decision as per Legislations and Privacy Principles).
- The relevant information requested is located and Appendix 2 – Processing Request begun. Appendix 2 attached to the front of the document, to create FOI Request Kit. (If files are not located or completion of the request will not be possible, requestor is to be notified within 14 days of their application.
- FOI Kit
 - FOI Processing Requests (1.8.1 Appendix 2)
 - FOI Request - Appendix 1
 - FOI Procedure
 - Freedom of Information Professional Standards
 - FOI Guidelines
 - Guide to Section 30 Internal Working Documents
- Appendix 2 is updated and given for processing to reviewer. Quote of cost is to be estimated, the application fee/deposit is then forwarded to the Finance Department for receipt. FOI Officer ~~delegates~~ review of the file to the appropriate Clinical Worker/Program Manager.
- The reviewer utilises Appendix 2 to review the file by scheduled date to ensure further work can be completed within 45 days or by the due date. The reviewer then updates Appendix 2 for outcome of request and time spent on FOI request. All files are then returned to Administration Support.
- Administration Support then completes Appendix 2 and calculates the associated costs of processing the FOI request. Any extra fees incurred for processing the application (including the application fee), means consideration of further invoicing prior to progressing should occur. Administration Support to collate all time and costs to this point and discuss with FOI Officer.
- FOI Officer will inform the CEO of application and outcome that will be processed to completion.
- If Extra Fees are to be invoiced, Administration Support will contact the requestor after discussion with the FOI Officer and advise for the FOI request to continue, a payment must be made prior to the completion of photocopying. If the requestor has indicated that they want the FOI request to proceed, the FOI officer authorises Appendix 3 -FOI Extra Fees request and sends the request to the Finance Department to raise an invoice.
- Invoice is sent to the FOI requester and QEC await payment. (The length of times awaiting payment is not included in the 45 days).
- Once invoice has been paid, the Finance Department issues a receipt to the client.
- Administration Support copy the relevant document as per FOI request and review outcome.
- The FOI Officer confirms all documents match the Reviewers outcome and authorises the letter.
- Administration Support then forward the document to the Requestor and update the FOI Request Register and ensure a copy of the information is retained in the client's file.

1.8.1 FOI – Appendix 2 Processing Request

TO:

FROM: Freedom of Information Officer, QEC

DATE:

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST- Appendix 2

..... has applied for the client records/documents under the Freedom of Information Act of, and therefore these records require review.

Utilising the attached Freedom of Information Professional Standards, exemption guidelines and procedure for processing FOI requests, please check carefully all sections relating to the request, including clients treatment.

Please indicate (by tagging) if there are any sections, which you believe may need to be withheld or exempted under the FOI Act, by using the Exemption guide. You may choose to exempt a name, sentence, paragraph or whole page/report. It is also necessary that you note the Section(s) of the FOI Act under which the information is being withheld.

Please also note your comments and sign the relevant section of QEC FOI review form which has been included in this kit.

Return your response to Administration Support with a full copy of the records you received as soon as possible, so the record can be photocopied with a decision letter begun.

Please return by this date / / .

If we fail to respond to the applicant within 45 days of the original request, the applicant has an automatic right to appeal to VCAT.

If you feel that you are unable to meet this deadline, please contact me as soon as possible.

Your early attention to this matter would be greatly appreciated.

With many thanks,

Freedom of Information Officer
QEC

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FOI Exemption Guide

Below is a non-exhaustive list of exemption reasons that a document may be considered exempt from release. These should be taken into account with the guidance of Freedom of Information Professional Standards and the Consolidated FOI Guidelines March 2014.

Reasons for exemption will be notified to the applicant and though release may be fully allowed, partial release can also occur with only some documents exempt.

If a document is to be exempt, the page/s should be tagged within the file with the reason listed.

Section 30 (1)

Where disclosure would disclose advice/opinion/recommendation from one agency to another, or deliberation/consultation between QEC and DHHS for deliberative purpose of assessing parenting capacity and risk to child

Release of document could be against the public interest due to the sensitivity of the document and the need for officers to be able to exchange frank and candid views regarding parenting issues identified. This section is possible in a situation of a QEC report to DHHS.

Section 31 (1)

Where disclosure would be likely to endanger the lives or physical safety of persons engaged in or in connection with law enforcement or persons who have provided confidential information to the enforcement or administration of the law. This section obviously has in mind police and prison officers and persons providing to them, but MAY also apply, for instance, in the administration of the Mental Health Act.

This section also relates to situations where prejudice of investigation of a breach or possible breach could occur. This section is possible in an ongoing situation between the requestor and DHHS.

Section 33 (1)

Where disclosure would involve the unreasonable disclosure of information relating to the affairs of another person including a deceased person; i.e. An intrusion on the privacy of some person other than the applicant. An example of such an intrusion might be, for instance, where a relative discloses confidential information about someone other than the patient (eg. A family member) which is intended to help the treating professional but is not meant to be disclosed to the patient.

Section 33 (4)

Where disclosure of information of a medical or psychiatric nature regarding the person making the request might be prejudicial to the physical or mental health or well being of that person. Note that in this case the information may be given instead to a legally qualified medical practitioner nominated by the person making the request and approved by the principle officer (in our case Chief General Manager of the Health Department.)

Section 35(1)

Where disclosure would divulge information or matter communicated in confidence (by another person), and where such disclosure would be likely to impair our ability to obtain similar information in the future. An obvious example here would be where a relative discloses information about a patient on the understanding that this disclosure is not be divulged to the patient. Obviously if it was so divulged the relative concerned would be unlikely to disclose similar information in the future.

Section 37(1)(b) (page 81 of FOI Guidelines March 2014 Section 5)

Where disclosure would divulge the identity of a confidential source of information connected with the document, or the enforcement of the law. It is the source, rather than the information, which is confidential.

Section 37(2)(a) (page 84 of FOI Guidelines March 2014 Section 5)

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Where disclosure would, or could reasonably be expected to prejudice the fair trial of a person or the impartial adjudication of a particular case.

Section 37(1)(c) (page 131 of FOI Guidelines March 2014 Section 6)

Where disclosure would divulge employees personal information and could reasonably be expected to, endanger the life or physical safety of any person.

A practical refusal reason exists if: (page 35 of FOI Guidelines March 2014)

Section 24 AA(a)(i)

In the case of an agency – the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations

Section 24AA(1)(b)

The request does not provide information that is reasonably necessary for a responsible officer of the agency, to be able to identify the documents.

Please remember to flag each page within the record that has an exemption, to ensure nothing is missed when photocopying. In addition, each exempt sentence/paragraph or page **must** have the section of the FOI Act under which the document is exempt, written in the margin in pencil.

Please call (FOI Officer) if required on – 9549 2777 for guidance in applying the exemptions.

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FOI Request Reviewer Outcome

To be completed by the Clinical Worker or Program Manager

Reviewers Name..... Date reviewed.....

Applicant / Patient Name:..... UR:.....

(Please circle relevant option)

- A. Inspect all of medical record/documents
- B. Inspect part of medical record/documents
- C. Other (please list):

Please note that this application will be placed in the records after your completion and may be accessed under the FOI legislation.

Review Outcome: (please state what is the outcome of your review and if any exemptions apply)

Date:..... Title:.....

Signature:.....

Name:.....

Do any of the following exemptions under the FOI Act apply?

YES / NO (Please cross out incorrect answer)

- Disclosure may be against the public interest due to sensitivity of document and need for frank candid reporting
- Disclosure would be likely to endanger the lives or safety of persons providing confidential information
- Disclosure would relate to the affairs of another person and intrusion of their privacy
- Disclosure of a medical or psychiatric nature might be of harm to the recipient
- Disclosure would disclose information passed on in confidence
- Disclosure would divulge confidential source of information
- Disclosure could prejudice fair trial or impartial adjudication
- Employee personal information would be divulged
- Practical refusal – work involved in processing would substantially divert resources
- Practical refusal – request does not provide information to identify

Please list reason for decision and note that this reason and exemption clause will be given to the requestor

Section 26 State of Reasons (page 168 FOI Guidelines Section 8)

Access to a requested document is refused, including because:

- A request document is exempt from release (please ensure reason is listed)
- The document has been insufficiently identified in the request
- The document does not exist or cannot be found

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- A practical refusal reason exists
- Access to the requested document is deferred
- Access will be given in a different form
- A request to amend or annotate a record is refused

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FOI Request Administration

Time, Cost, Resources for processing request:

Please list approximate time spent on this FOI request:

Administration Support Name: _____ Admin Time: _____

Review Name: _____ Reviewer Time: _____

FOI Officer: _____ FOI Time: _____

Please return by date: _____ To FOI Officer, QEC.

Request Log and due dates:

Date FOI Request Received		Date 45 days from Receipt of FOI Request:	
Date entered onto electronic database		Application Fee Received: Please state Amount	YES / NO \$ ____.
Photocopying Fees (If applicable)	\$ ____.	Date FOI Client Advised if cost will be >\$50 Photocopying	
Invoice No for Photocopying		Date invoice raised	
Date money received for photocopying		Date FOI client documentation and Invoice for photocopying sent to client:	
Photo Identification sighted or attached:	YES / NO		
Name on ID			
Client files and request letter taken to Area Manager	YES / NO	Date	
Action Taken			
CEO Informed	YES / NO	Date	

FOI Officer Signature: _____

Print Name: _____

Date: ____ / ____ / ____

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1.8.1 FOI – Appendix 3 Finance Extra Fees Request

Request for Invoicing of FOI extra costs:

Please issue an invoice for the below party for costs of \$.....

Please insert details of Requestor

Name.....

Address 1.....

.....

Address 2.....

Suburb.....

Post Code.....

For completion of the FOI Request dated

Regarding UR numbers:

Authorised: FOI Officer Signature

Date

(Waiver of fee MUST be approved by the CEO)

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