

How to Respond to a Request for Information

This factsheet provides guidance about the request for information process, the do's and don'ts, how we can help agencies understand the process, and protections for those providing information and how we handle the information we receive.

A Request for Information (RFI) is an essential part of an Ombudsman investigation. We typically make an RFI request under section 9(4) or section 18(4) of the [Ombudsman Act 1989](#). However, we may make requests under any of our legislated powers to make inquiries and obtain information.¹

Agencies can help by providing a response critically engaging with the questions we ask. This helps us identify relevant issues and identify improvements to benefit the agency and, most importantly, the people in our ACT Community.

Why is it important for agencies to critically engage with our questions?

We appreciate responding to an RFI takes time and agency resources.

This is why we try to ask targeted and focused questions. We want the best information from the agency in the shortest possible time.

¹ The ACT Ombudsman has inquiry and investigation functions under a number of different Acts, including the *Ombudsman Act 1989*, *Freedom of Information Act 2016*, *Integrity Commission Act 2018*, *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Act 2018*, *Public Interest Disclosure Act 2012* and *Children and Young People Act 2008*. For simplicity, we have only referred to the provisions in the Ombudsman Act, however, the general principles mentioned apply to all our requests for information and enabling powers, and we will identify the provisions we are using in our requests for information.

Helping people and improving government are our core objectives.

Agencies that properly engage with our RFIs are instrumental in helping us achieve these objectives.

We often publicly acknowledge agencies who cooperate with our investigation.

Agencies who do not properly engage with an RFI run the following risks:

- We may revisit the RFI with the agency until we are satisfied its response addresses our questions. This takes more time and resources for both the agency and our Office.
- We may use one of our powers to compel production of information, documents or require an agency official to attend our Office to answer our questions.² Refusing or failing to comply may carry criminal penalties.³
- Our RFI process is finite. If we take the view further follow up would not efficiently progress the matter, or the response does not demonstrate the agency has made a satisfactory attempt to engage, we can proceed to finalise our investigation on the information available to us.

We may comment publicly in our final report on how the agency engaged with our Office during the investigation.

Some tips on effectively engaging with our RFI

- Consider carefully what we are asking. Clearly and directly address the questions asked.
 - If you are not clear on what our question is asking or how much information to provide, please reach out to us.
- Be open, honest, timely and transparent when providing your response. Provide the full information, keeping in mind that agencies and people giving us information have legal protections.
- Where possible, backup statements of fact with supporting document(s) such as policies, procedures and publicly available information. Avoid opinion.

² For example, s 11 *Ombudsman Act 1989*.

³ For example, s 35 *Ombudsman Act 1989*.



- When providing documents, identify the relevant section(s) in the document and explain why they are relevant. This is especially important where the relevant information is located within a large document.
- Think about whether you need to get legal or other professional advice to provide a proper response. Act appropriately on any advice obtained.
- If you cannot provide the requested information or are unable to provide the requested information by the date we've asked for, please tell us quickly and explain why. We will then consider if we will grant an extension.

We can help agencies understand our RFI

When we issue an RFI, we may provide you with a template to help guide your response. We encourage you to follow the model to help provide concise, relevant information.

Where an investigation is complex, we may arrange to meet with you to step through the investigation process and the information we are seeking.

Even if we don't initiate this, we encourage agencies to ask for such a meeting if you consider it will help.

Protection for agencies and how we treat the information we receive

Our legislation has safeguards to protect agencies that provide information to us. For example:

- information cannot be used in evidence against the person (except in limited circumstances)⁴
- providing information does not affect a claim that may be made for legal professional privilege,⁵ and
- the person is not liable to any penalty for providing the information.⁶

⁴ For example, s 11(5) *Ombudsman Act 1989*.

⁵ For example, s 11(5) and 170(1) *Ombudsman Act 1989*.

⁶ For example, s 11(6) and 170(2) *Ombudsman Act 1989*.



We have policies and procedures to ensure the information we collect is handled appropriately.⁷

This includes protection against unauthorised access, use, modification or disclosure, or other interferences.

As the Commonwealth Ombudsman is also the ACT Ombudsman, information is handled in accordance with the [Privacy Act 1988 \(Cth\)](#) and the Australian Government's [Protective Security Policy Framework](#).

Our investigations are conducted in private.⁸

We are also subject to confidentiality obligations.⁹ The ACT Ombudsman may choose to publicly disclose information if certain legislative requirements are met.¹⁰

However, if there are any opinions that are either expressly or impliedly critical of an agency or individual, the ACT Ombudsman must first give the agency procedural fairness.¹¹

For more information visit ombudsman.act.gov.au or call 02 5117 3650.

⁷ We can receive unclassified material by email and information classified as *Protected* through our secure protected enclave. Any material with a higher classification we will arrange alternative delivery.

⁸ For example, s 9(3) *Ombudsman Act 1989*.

⁹ For example, s 33 *Ombudsman Act 1989*.

¹⁰ For example, s 34 *Ombudsman Act 1989*.

¹¹ For example, s 9(6) *Ombudsman Act 1989*.

