

## Refusal of FOI access request for

This precedent has been authored for LexisNexis  
**University of Queensland.**

This precedent is a part of a LexisNexis suite of fo

This precedent is current to **January 2015.**

### **Introductory note**

This precedent is a refusal of FOI access requ

### **Legislation**

Legislation providing for freedom of informati  
and territories under various names.

The Commonwealth Act is the Freedom of Inf  
territory Acts are:

- Freedom of Information Act 1989
- Information Act 2002 (NT);
- Government Information (Public
- Right to Information Act 2009 (Q
- Freedom of Information Act 1991
- Right to Information Act 2009 (Ta
- Freedom of Information Act 1982
- Freedom of Information Act 1992

The Commonwealth Act has served as the ba  
amended by the Freedom of Information Ame  
now between that Act and those laws. Indeed  
are now significant areas of difference as well

The particular state or territory law in question  
issue, ie if information is sought at state or ter  
territory agency, the relevant state or territory

### **Circumstances in which access may be re**

#### **Commonwealth**

LexisNexis Sample

In certain circumstances the Cth FOI Act allows access to documents if a practical refusal reason exists.

A "practical refusal reason" is defined in section 24AA(1)(a):

- in the case of an agency, where the refusal would be substantially and unreasonably detrimental to the operations of the agency: section 24AA(1)(a)(i)
- in the case of a Minister, where the refusal would substantially and unreasonably interfere with the operations of the Minister: section 24AA(1)(a)(ii).

In determining these matters, relevant considerations include the time used in identifying, locating or collating the documents in the office of the Minister concerned: section 24(2)(b).

These provisions (and state or territory equivalent provisions) apply to government agencies and not to private government agencies. Applicants must work on the basis that a refusal of access is reasonable unless the reasonableness must be implied in the process.

A decision to refuse access on the ground of a practical refusal reason must be made lightly.

There is no reason to ignore the circumstances of a particular request, an agency's ability to process the request or the nature of the information sought.

Access to a document may be refused if a document is not in section 24A. A respondent must have done all that is reasonably practicable to examine all documents in its possession: it need not examine all documents in its possession: it need not locate documents.

A claimed inability to find documents may be a practical refusal reason (on this basis) or the matter may be remitted for further search. A request for voluminous documents may be refused because the legislation provides for and prescribes the manner in which such requests are to be dealt with.

### States and territories

**Australian Capital Territory:** The Freedom of Information Act 1982 (ACT) applies the terms to the Cth FOI Act section 24AA. The maximum period for search is 23(2). There is no equivalent to section 24A of the Cth FOI Act.

**Northern Territory:** The Information Act 2002 (NT) applies the terms to the Cth FOI Act section 24AA. An organisation may decide to refuse access because of the nature of the operations of the organisation. By section 24(2)(b) effect if, after taking all reasonable steps, that information cannot be located.

**New South Wales:** The Government Information Act 2009 (NSW) applies the terms to the Cth FOI Act section 24AA.