

# Freedom of Information Hardship Policy

**Responsible Service Area:** Governance & Performance

**Last updated:** 25/11/2024

## Purpose

Freedom of Information (FOI) applications are subject to application fees. Fees refer to the charges imposed by government agencies or public bodies for processing FOI requests. These fees are typically designed to cover the administrative costs associated with retrieving, reviewing, and releasing requested information.

Maroondah City Council (Council) recognises that people in the community may face financial challenges when it comes to paying the FOI application fee. As a result, Council is committed to implementing measures to support people who experience extreme financial hardship regarding the FOI application fee.

## Scope

Council's Risk and integrity advisors who assess an FOI hardship application must comply with the provisions of this Policy.

Members of the community who submit a valid FOI request may be eligible to apply for a waiver, or a reduction of the application fee as described in this Policy if they are experiencing financial hardship.

## Objective

This Policy seeks to ensure that individuals who meet specific criteria regarding financial hardship are provided with appropriate relief or assistance, allowing them to exercise their right to gain information without an additional financial burden. This is achieved by providing a fair and equitable process for people who are experiencing financial hardship, and which will be impaired because of paying the FOI application fee.

The goal of this Policy is to promote transparency, accountability, and equal access to information for people, regardless of their financial circumstances.

## Background

The FOI Hardship Policy is a set of guidelines and procedures that outline how Council manages requests for information from people who face financial challenges relating to FOI applications.

<b>Policy Title:</b> Freedom of Information Hardship Policy		<b>Policy type:</b> Operational
<b>Current version approved:</b> 25/11/2024		<b>Current version number:</b> 1
		<b>Policy review date:</b> November 2026
<b>Parent Policy:</b> Public Transparency Policy	<b>Child Policy/Policies:</b> N/A	<b>Policy responsibility:</b> Manager Governance and Performance

The purpose of a FOI Hardship Policy is to ensure that individuals who are unable to pay the FOI application fee are not unduly burdened regarding their right to access information. Furthermore, this Policy includes provisions for waiving or reducing fees for people who can demonstrate that they're experiencing extreme financial hardship.

This Policy outlines the criteria, documentation required, the process for requesting an application fee waiver and the provisions for appealing decisions related to a hardship requests.

This Policy has been developed in accordance with the guidelines outlined in section 1.25 (section 17) of the Office of the Victorian Information Commissioner (OVIC) FOI Professional Standards Guidelines. It is to ensure Council is compliant with the recommended standards and practices set forth by OVIC in relation to application fee waivers/reductions for individuals experiencing financial hardship.

<https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-17/>

## Policy Statements

- To ensure that the FOI process is accessible and inclusive for all. Council has developed a Policy to enable the provision of a waiver or reduced application fee for FOI applicants who can demonstrate genuine financial hardship.

These circumstances may include but are not limited to:

- unforeseen expenses, such as car or medical costs
  - reliance on Centrelink for income
  - physical health issues
  - mental health issues
  - family violence issues
  - employment problems such as losing a job, not having enough work or working variable hours.
  - excessive borrowing
  - lack of ability to manage budget/money.
  - overspending
  - global economic climate
  - and of recent times the incidence of a global pandemic
- Any member of the community who submits a valid FOI request is eligible for an application fee waiver, or reduction for (1) one application fee per calendar year under this Policy.
  - To apply for an application fee waiver or fee reduction, applicants must fill out an FOI hardship application form, provide evidence or documentation that demonstrates their financial hardship before an FOI application is processed. The evidence documents may include, but is not limited to, proof of low income, unemployment status, being in receipt of government financial assistance, and other relevant financial documentation.
  - This Policy specifically relates to the FOI application fee only. All other FOI fees, including access charges, will be levied in accordance with the charges stipulated by OVIC the Office of the Victorian Information Commissioner (OVIC). <https://ovic.vic.gov.au/>

## Policy Implementation

1. **Eligibility and Application Process:** FOI applicants experiencing extreme financial hardship are eligible to apply for one (1) application fee waiver or reduction per calendar year. Any additional FOI requests within the same calendar year will be subject to the standard FOI application fee rate set out by OVIC.
2. **To prove eligibility:**  
Applicants must:
  - fill out a freedom of information hardship form,
  - provide a statutory declaration advising the reasons for the hardship application fee waiver/reduction.
  - provide evidence demonstrating their financial hardship. This includes proof of low income, unemployment information, medical documents, and the relevant financial documentation to support the application under Section 17 (1.23) of the OVIC FOI Guidelines. [Section 17 – Office of the Victorian Information Commissioner \(ovic.vic.gov.au\)](#)
3. **Submission Methods:** Applicants are required to submit their FOI application fee waiver or reduction request, along with the required supporting documentation, by either: email ([foi@maroondah.vic.gov.au](mailto:foi@maroondah.vic.gov.au)), mail (PO Box 156 Ringwood VIC 3134), or in person by visiting one of Council's customer service centres. <https://www.maroondah.vic.gov.au/Customer-service/Contact-us>
4. **Case-by-Case Assessment:** FOI application fee waivers or reduced fees for people experiencing financial hardship will be assessed on a case-by-case basis to ensure that applicants facing financial difficulties receive the appropriate consideration.
5. **Disputes or Complaints:** If there are disputes or complaints with how Council has managed a request for an FOI application reduction/waiver, applicants can request a review via Council's [Customer feedback, compliments and complaints form](#)
6. **Further escalation:** Applicants who are dissatisfied with the Council's review outcome may contact OVIC directly - [Office of the Victorian Information Commissioner \(ovic.vic.gov.au\)](#)

## Roles and responsibilities

Role	Responsibility
<b>Governance and Performance (service area)</b>	Are responsible for: <ul style="list-style-type: none"> <li>• Overseeing the development, implementation and review of this Policy</li> <li>• Ensuring awareness of this Policy across Council service areas</li> <li>• Conducting assessments of hardship applications ensuring effective communication to the applicants</li> </ul>
<b>Council's Risk and Integrity function (incorporating associated line management)</b>	Are responsible for: <ul style="list-style-type: none"> <li>• Ensuring Council fulfills its responsibilities under its Freedom of Information Hardship Policy.</li> <li>• Managing confidential records relating to hardship applications.</li> <li>• Assessing hardship applications received, in strict accordance with this Policy and OVIC Guidelines.</li> </ul>
<b>Employees with Supervisory Responsibilities</b>	Are responsible for: <ul style="list-style-type: none"> <li>• Ensuring employee awareness of this Policy</li> </ul>

## Definitions

For the purposes of this Policy, the following definitions apply:

<b>Chief Executive Officer</b>	Includes the Chief Executive Officer and an Acting Chief Executive Officer
<b>Council</b>	Refers to Maroondah City Council
<b>Councillor</b>	Refers to a Councillor, as defined in Section 3 of the Local Government Act
<b>Council employees</b>	Refers to the Chief Executive Officer and all appointed Council employees.
<b>Council website</b>	Refers to Council's website at <a href="http://www.maroondah.vic.gov.au">www.maroondah.vic.gov.au</a>
<b>FOI</b>	Refers to Freedom of Information
<b>Policy</b>	Refers to a formal statement of principle which regulates Council's activities, defines roles and responsibilities within Council, and provides guidance to assist staff in carrying out Council functions in line with Council values and relevant Legislative obligations
<b>OVIC</b>	Refers to Office of the Victorian Information Commissioner <a href="https://ovic.vic.gov.au/">https://ovic.vic.gov.au/</a>
<b>Applicant</b>	Refers to a person making a request to access Council information under, and in accordance with this Policy

## Relationship to the Maroondah 2040 Community Vision

<b>Community Outcome:</b>	A well governed and empowered community
<b>Key Directions:</b>	8.1 Provide community inspired governance that is transparent, accessible, inclusive and accountable. 8.2 Ensure responsible and sustainable management of Maroondah City Councils resources, assets, infrastructure and natural environment.

## Related legislation and policies

### Legislation and Regulations

- Local Government Act 2020
- Freedom of Information Act 1982
- OVIC FOI Guidelines

### Council Policies

- Freedom of Information Part II Statement
- Public Transparency Policy
- Privacy Policy

## Appendix 1

The OVIC FOI Professional Standards Guidelines regarding assessment of hardship for FOI application fee waivers or part payments - <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-17/>

### Section 17 - Requests for access - Assessing hardship

#### 1.17

Consistent with the object of the Act, the application fee is not intended to impose a barrier to a person making an FOI request.

#### 1.18

The decision to waive or reduce an application fee is a discretionary decision that must be exercised as far as possible to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information.<sup>36</sup>

#### 1.19

Assessing whether paying the application fee will cause hardship to the applicant will depend on the context and merits of each situation. It involves questions of fact and degree as well as a value judgment.<sup>37</sup>

#### 1.20

The word 'hardship' is not defined in the Act and should be given its ordinary meaning.<sup>38</sup> Agencies and Ministers are encouraged not to take a technical or overly legalistic approach when determining whether to waive an application fee.

#### 1.21

In other contexts, the term 'hardship' has been interpreted to include any matter of appreciable detriment whether financial, personal, or otherwise<sup>39</sup> and to have the quality of being 'hard to bear or a substantial detriment'.<sup>40</sup>

#### 1.22

An applicant does not need to prove that paying an application fee would deprive them 'of the comforts or necessities of life', to meet the requirement of hardship. Hardship can encompass a lesser degree of suffering.<sup>41</sup>

#### 1.23

An applicant should provide the agency or Minister with relevant evidence that paying the application fee would cause them hardship. This might include a health care or concession card, a bank statement, or statutory declaration detailing the circumstances of their hardship.

#### 1.24

The amount of required evidence must be proportional to the amount of the charge involved. In a usual situation where the amounts are not large, a detailed inquiry into the applicant's means may not be justified. In most cases, an inquiry as to income, estimated weekly commitments and available cash in bank or similar accounts may be sufficient to assess hardship.<sup>42</sup>

#### 1.25

Agencies and Ministers should develop and consistently apply a policy for waiving or reducing the application fee. The policy should be accessible to the public on the agency or Minister's website. For example, this may include forms of evidence for establishing hardship that the agency or Minister accepts.

## Appendix 2

Section 17 of the [Freedom of Information Act 1982](#) also provides directions regarding application fee waiver or reduction.

### FREEDOM OF INFORMATION ACT 1982 - SECT 17

#### Requests for access

(1) A person who wishes to obtain access to a [document of an agency](#) or an [official document of a Minister](#) shall make a [request](#) in writing to the [agency](#) or [Minister](#) as the case requires for access to the [document](#).

(2) A [request](#) shall provide such information concerning the [document](#) as is reasonably necessary to enable a responsible [officer](#) of the [agency](#), or the [Minister](#), as the case may be, to identify the [document](#).

[S. 17\(2A\)](#) inserted by No. 58/1993 [s. 6](#), amended by No. 10/2004 [s. 15](#)([Sch. 1](#) item 9).

(2A) A [request](#) must be accompanied by a fee of 2 fee units.

[S. 17\(2B\)](#) inserted by No. 58/1993 [s. 6](#).

(2B) An application fee may be waived or reduced, whether or not the fee has been paid, if the payment of the fee would cause hardship to the [applicant](#).

(3) It is the duty of an [agency](#) or [Minister](#), as the case may be, to assist a person who wishes to make a [request](#), or has made a [request](#) that does not comply with this section or has not been directed to the appropriate [agency](#) or [Minister](#), to make a [request](#) in a manner that complies with this section or to direct a [request](#) to the appropriate [agency](#) or [Minister](#).

(4) Where a [request](#) in writing is made to an [agency](#) or [Minister](#) for access to a [document](#), the [agency](#) or [Minister](#), as the case may be, shall not refuse to comply with the [request](#) on the ground that the [request](#) does not comply with subsection (2), without first giving the [applicant](#) a reasonable opportunity of consultation with the [agency](#) with a view to the making of a [request](#) in a form that does comply with that subsection.