

A POSITION PAPER FROM LIGHTKEY.ORG

# When the Pathway *Is* the Barrier

Australian law gives you rights.  
But if you cannot see the path to use them,  
do you really have them?



Right    Timeline    Decision    Keystone

LightKey · A [GlassCase.org](#) initiative  
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# You have the right to access government documents. To appeal administrative decisions. To seek review.

These rights are real. They are written into Australian law. The system is designed to protect you.

Freedom of Information (FOI) Act 1982

Agency website

Practice direction

Tribunal rules

IC guidelines

Ministerial direction

Administrative Decisions (Judicial Review) (ADJR) Act 1977

Where do I start?

The steps to use these rights are scattered across different laws, agency websites, tribunal rules, and internal guidelines. No single place shows you the full path from start to finish.

If you already know how government works — if you have a lawyer, or you work in the system — you can find your way. If you do not, the path is hidden.

This is not a gap in the law. The law works. It is a gap in the map.

The [FOI Act 1982 \(Cth\)](#) gives every person the right to access government documents (s 11). Merits review is available under the [Administrative Review Tribunal Act 2024 \(Cth\)](#) (replacing the former AAT Act 1975). Judicial review is available under the [ADJR Act 1977 \(Cth\)](#).

These pathways are spread across separate laws, agency guidance, and tribunal rules. The Australian Law Reform Commission (ALRC) and [Law Council of Australia's Justice Project \(2018\)](#) identify legal complexity and hard-to-follow information as barriers.

[FOI Act 1982 \(Cth\)](#); [Administrative Review Tribunal Act 2024 \(Cth\)](#); [Law Council of Australia, The Justice Project \(2018\)](#).

## WHAT IT LOOKS LIKE · TIMELINE

**Imagine you made a request to a government agency. Sixty days pass. You hear nothing.**



### A COMMON EXPERIENCE

You submitted an FOI request. The law says the agency has 30 days to decide. It has been 60. You have heard nothing.

You have the right to seek review. But you do not know this. The agency knows the deadline. They know you probably do not.

The delay costs you time and certainty. The agency faces no practical consequence.

The **timeline is invisible** to the person it affects. If you cannot see the timeline, you cannot see the breach. And if you cannot see the breach, you cannot use the remedy.

Office of the Australian Information Commissioner (OAIC) annual reports show that a significant proportion of FOI requests exceed statutory timeframes. The 30-day period: s 15(5) (b) **FOI Act 1982**. Deemed refusal when no decision is made: s 15AC. IC review: s 54L.

Cognitive load theory ([Sweller, 1988](#)) explains why fragmented information environments increase extraneous load.

[FOI Act 1982 \(Cth\)](#) ss 15(5)(b), 15AC, 54L; [OAIC Annual Reports](#); [Sweller \(1988\)](#).

## THE GAP · DECISION

# The system follows the rules. But following the rules is not the same as being fair.

### WHAT HAPPENS NOW

Agencies process your request. They send a decision letter. They list review options in legal language at the bottom. They have followed the rules.

### WHAT IS MISSING

You can see where you are. You know the timeline. You can tell when something has gone wrong. You know what to do next.

This gap appears in many areas. In business supply chains, researchers have shown how ticking the right boxes can meet the rules on paper without giving real visibility to the people affected.

A similar pattern appears in government. Agencies follow the law. But when the people affected cannot find or follow the pathway, following the rules does not produce real accountability.

Locke, R. (2013) documents the limits of private auditing in supply chain governance.

Nolan, J. & Frishling, N. (2019) document how the [Modern Slavery Act 2018 \(Cth\)](#) produces formal compliance without meaningful visibility for affected workers.

Locke (2013); [Modern Slavery Act 2018 \(Cth\)](#); Nolan & Frishling (2019).

## When people can see the path, three things change.

1

### Gaps become visible.

If you can see the 30-day timeline, you can see when it has been broken.

2

### Accountability becomes possible.

You can now lodge a complaint — not because the system changed, but because you can see it.

3

### Patterns become visible.

When many people can see the path, patterns emerge. Where do delays keep happening? Where are decisions being made without being properly recorded?

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*Making the path visible is not just about helping one person navigate. It creates the conditions under which the whole system can be held to account.*

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**Being able to see the process is not a bonus. It is a requirement for fairness.**

## Complexity stays. Overwhelm doesn't.

Government processes are genuinely complex. Multiple pathways.

Deadlines that shift. Decisions that depend on someone's judgement.

LightKey does not hide this complexity. It makes it navigable.



The FOI pathway on [lightkey.org](#). Five steps. One key moment. Two choice points.  
Colour-coded throughout.

This is not simplification. It is applying what we know about how people process information to a domain that has not yet used it.

Sweller's cognitive load theory distinguishes intrinsic load (inherent complexity) from extraneous load (poor presentation). LightKey reduces extraneous load while preserving intrinsic complexity.

Web Content Accessibility Guidelines (WCAG) 2.2, particularly the "understandable" principle, provides the accessibility foundation. Universal design holds that design for people with disability produces better outcomes for everyone.

Center for Universal Design principles; Sweller (1988; 2011); WCAG 2.2.

## Three honest objections.

**Q "Legal aid already does this."**

Legal aid gives advice and representation. It is essential — and underfunded. LightKey does not replace legal advice. It helps people see the map *before* crisis, so they know when they need a lawyer and what kind. Tools like this and legal aid work together.

**Q "Won't this encourage bad-faith complaints?"**

This assumes complexity is a useful filter. It is not. Complexity filters out people who do not already know how the system works — not people with weak cases. That tracks with education and resources, not the strength of a complaint. If making the path clearer increases complaints, that tells us the current numbers are too low.

**Q "People might think they don't need a lawyer."**

A real concern. LightKey addresses it: pathway guides note where professional advice matters. The goal is *helping you see the path*, not expecting you to walk it alone. You should be able to see the map. That does not mean you go without help.

THE BIGGER PICTURE · WHERE LIGHTKEY SITS

## LightKey sits within GlassCase as its public accessibility layer.



### GlassCase.org · The diagnostic layer

Open tools that map how administrative decisions are made — where discretion lives, where delays cluster, where redactions are applied. For researchers and oversight bodies.



### LightKey.org · The public layer

Step-by-step pathway guides for people who deal with government processes. Designed to be clear and easy to follow. Especially for people who process information differently.



### Fairness by Design · The founding principle

How a process is designed shapes whether it is fair. Making a process visible is the first step to making it fair.

Transparency that only reaches professionals is not yet finished.

WHAT NEEDS TO HAPPEN · ACTION

## Legibility is not optional. It is infrastructure.

### POLICYMAKERS

Require agencies to publish navigable pathway guides alongside legislation — not as PDFs buried in footers, but as structured, accessible resources.

### LEGAL AID & ADVOCACY

Build legibility into intake. Clients should arrive with orientation, not just distress. Pathway guides and legal advice work together.

### ACCESSIBILITY ADVOCATES

"Access to justice" must include making legal pathways understandable — not just making courtrooms physically accessible.

### RESEARCHERS

Study the link between clear pathways and whether people actually use their rights. If clearer pathways increase complaints, that tells us the real number was always higher.

### THIS PAPER USES THE SAME DESIGN PRINCIPLES AS LIGHTKEY

One idea at a time. Colour-coded. Evidence available but not blocking the path. If it was easy to follow, the principle holds.

**Making the path visible. Making fairness possible.**