

## Can I change my medical records?

### Requesting an amendment under the *Freedom of Information Act 1992 (WA)*

If you think a public health service has written something about you that isn't right, like information that's wrong, missing, out of date, or misleading, you can start by contacting them directly. Sometimes they may agree to fix it without needing you to make a formal request.

If they don't agree or don't respond in a helpful way, you have the right to ask for a formal correction under the Freedom of Information (FOI) Act. Under section 45 of the FOI Act, you can apply for your personal information to be changed or amended if it's **inaccurate, incomplete, out of date, or misleading**.

### How to request an amendment under the FOI Act

Under the FOI Act, formal applications must:

- be in writing;
- give enough details to identify the document that contains the incorrect information;
- identify the information you believe to be inaccurate, incomplete, out of date or misleading;
- give your reasons for holding that belief;
- give details of the amendment you wish to have made (specifying whether you wish the amendment to be made by altering, striking out or deleting the information or inserting a note in relation to information);
- give an Australian address to which notices can be sent; and
- be lodged at the office of the service that holds the documents.

Your application for amendment should include some **information** or **evidence** to establish that the personal information you seek to have amended is **inaccurate, incomplete, out of date or misleading**.

### Proving inaccuracy

Disagreeing with what's written isn't enough to prove it's wrong. To have personal information amended, you need to provide some factual information or evidence that proves that the information is inaccurate. For example, if you are trying to amend an incorrect date of birth, you would offer your birth certificate as a piece of evidence.

However, proving that the information is wrong does not always result in the information being removed.

## Do I have a right to have the information changed?

You have the right to apply, but that doesn't guarantee the information will be changed. The FOI Act gives you the right to **request** amendments, but it does not mean the agency must agree to your request. They may decide the original information should stay.

## Will the information be removed if I prove its wrong?

Even if you can prove that something in your health record is wrong or misleading, it's unlikely that the original note will be deleted or removed completely.

The Information Commissioner has explained that:

- Health records are usually kept as a record of what the doctor or clinician thought or observed at the time, even if that turned out to be wrong.
- Deleting or changing those original notes could make the record misleading in a different way (for example, it might look like you were never a patient or never diagnosed).
- Instead of removing the information, the service might add your side of the story or a correction alongside the original note.

So, while you can ask for your records to be corrected, it's important to know that **amendments are more likely to be made by adding your comments, not by erasing what's already written.**

The FOI Act says information can't be deleted or destroyed unless the Information Commissioner gives written approval under section 48(3).

## Can a diagnosis or opinion be removed from my records?

It is **very rare** for a diagnosis or clinician's opinion to be removed or edited. Medical records are often treated as a record of what the health professional thought or observed at the time, even if it turns out to be wrong.

In *Re 'B' and Bentley Health Service [2008]*, the Information Commissioner explained:

- Just disagreeing with something doesn't prove it's wrong.
- You need to provide **evidence** that it's incorrect or misleading.
- Even if it is wrong, removing the original note could be misleading in a different way (for example, it might look like you were never treated or diagnosed).

Instead of deleting what's written, the agency may:

- Add a **note** to the record explaining your version of events.
- Keep the original information but include your **correction or comment** alongside it.

This means your disagreement is recorded, but the original note still stays in the file.

## Requests for a note disputing the accuracy of a document

The FOI Act recognises that people can hold different views about an event and that s.50 of the FOI Act allows a note to be added so that a person's alternative view can be recorded.

If the agency refuses your application for amendment of information, you can request the agency to make a notation or attachment to the information under section 50 of the FOI Act.

You can ask the agency to add a note or attachment to the record under Section 50 of the FOI Act. The agency must do this unless the note:

- Is defamatory, or
- Is unreasonably long or excessive.

If the service refuses, they must give you a written decision explaining why.

## What if I disagree with their decision?

You can ask for:

- **Internal review** – request a review of the decision by the same agency.
- **External review** – if you're not satisfied with the internal review, you can apply to the **Information Commissioner** for an external review.

For more information on this process, please see Office of the Information Commissioner: [Amendment of personal information](#).

*An advocate can help you understand and exercise your rights. If you need advocacy assistance, contact CoMHWA's advocacy team.*

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