



Information Sheet

Right to Information Act 2009 and Information Privacy Act 2009

Applying for complaint documents

This information sheet is intended to assist people who were involved in a complaint and are now applying to access documents about, or arising out of, that complaint. It applies both to people who made a complaint and to people who were complained about. It does not apply to documents arising out of a workplace investigation.¹

Can I apply for documents?

The *Right to Information Act 2009 (RTI Act)* and the *Information Privacy Act 2009 (IP Act)* give people the right to apply to Queensland government agencies for access to documents. However, access to those documents may be refused if information in the documents is exempt or contrary to the public interest to release.

Will I get access to the documents?

You are not likely to be given access to all the documents you ask for. You will likely get access to documents that contain only your personal information and to procedural documents.

Some of the documents you apply for may contain information that is exempt information, or information which is, on balance, 'contrary to the public interest' to disclose. You may not be given access to these documents.

For example, other people's personal information (such as any information which identifies the complainants) is generally considered to be contrary to the public interest to disclose and you are not likely to get access to that.

What is exempt information?

The RTI Act sets out that certain kinds of information are exempt from release. This information is called exempt information. If information is exempt the agency does not have to consider whether it is contrary to the public interest to release it.

¹ Please refer to the information sheet on applying for workplace investigation documents available here <http://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment>.



Confidential sources of information

Anything that would reveal a confidential source of information which relates to the enforcement or administration of the law is exempt information. When considering complaint documents the agency may have to consider if the documents you have applied for would reveal the existence or the identity of a confidential source of information. If so, you are likely to be refused access to the information.

If information is **not** exempt information the agency will have to consider whether the information is contrary to the public interest to disclose.

What is contrary to the public interest to disclose?

The RTI Act contains lists of public interest factors. Some of these are factors which favour disclosing information and some of them are factors which favour not disclosing information.

When making a decision about whether or not to release a document, the decision maker identifies the relevant factors and weighs the ones favouring disclosure against the ones favouring non-disclosure. Information that the decision maker decides would, on balance, be contrary to the public interest to disclose does not have to be released.

You do not have to give reasons for wanting to access the documents you are applying for, but in some cases doing so may help the agency identify factors favouring disclosure.

What information will be contrary to the public interest to disclose in complaint documents?

Personal information of other people

You will generally be given access to your own personal information. Releasing someone else's personal information (such as other people's observations, opinions, concerns or recollections) or information which infringes their right to privacy has been found to be contrary to the public interest. You may be refused access to this sort of information. Personal information of other people will include information which enables you to work out who made the complaint—it is very unlikely that you will be given access to this information.

In some circumstances it will not be possible to separate your personal information from the personal information of other people. An example of this may be a complaint containing the thoughts and feelings of the complainant about an incident or situation which you were involved in. If it is not possible to separate personal information, access to all of the personal information—yours and the other people's—may be refused. This means that you may not receive a complainant's complaint letter, even where it is a complaint made against you.



**Office of the Information Commissioner
Queensland**

Prejudice the flow of information

It has also been previously decided that releasing information that could prejudice the flow of confidential information to government is contrary to the public interest. For example, where witnesses or complainants understand that the information they provide to investigators will be held in confidence and they would be less likely to provide that information in the future if it is released, that sort of information may not be disclosed.

What about accountability in conducting investigations?

There will often be a broad public interest in the agency being accountable to the public for its actions. It is necessary, however, for the facts in each case to be considered to decide whether the interest in accountability is:

- favoured by disclosing the information in question
- strong enough to outweigh the specific factors against disclosure.

In most cases, the broad general interest in accountability has not been found sufficient to outweigh the above factors against disclosure.

For additional information and assistance please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.

This information sheet is introductory only, and deals with issues in a general way. It is not legal advice. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

If you have any comments or suggestions on the content of this document, please submit them to feedback@oic.qld.gov.au.

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Changes to legislation after the update date are not included in this document