



Information Sheet

INFORMATION SHEET - *Right to Information Act 2009* and *Information Privacy Act 2009*

Exempt information: Crime and Corruption Commission investigations - a guide for applicants

The *Right to information Act 2009* (**RTI Act**) allows people to access information held by government agencies.¹ This right of access is subject to some limitations which include the exempt information provisions in Schedule 3 of the RTI Act.

Schedule 3, section 10(4) of the RTI Act makes certain information relating to a Crime and Corruption Commission (**CCC**) investigation exempt from release. This is referred to as the CCC exempt information provision.

What information does the CCC exempt information provision apply to?

The CCC exempt information provision applies to all information which has been obtained, used or prepared by the CCC, or another agency, as part of an investigation relating to the CCC's prescribed functions, ie. crime, intelligence and/or corruption².

The words 'obtained, used or prepared' create a very large class of information which will cover most information relating to the investigation. If the CCC created it, acquired it, considered it or in any way put the information to use in the investigation, the exempt information provision will apply.

What do the CCC's functions cover³?

The CCC's **crime functions** relate to the investigation of major crime which has been referred to it. The CCC's **intelligence functions** relate to conducting intelligence activities to support its other functions and collecting and analysing intelligence data.

The CCC's **corruption functions** only relate to investigations into serious and systemic corruption. The CCC's corruption functions also specifically involve conducting or monitoring investigations into allegations of police misconduct.

¹ Chapter 3 of the *Information Privacy Act 2009* also allows an individual to access their personal information. In this information sheet references to an 'agency' include Ministers, unless otherwise specified.

² RTI Act, Schedule 3, section 10(9)

³ The *Crime and Corruption Act 2001*, sections 25, 33 and 53.



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What if the CCC asks the agency involved to carry out the investigation?

In some circumstances when an agency reports a matter/complaint to the CCC, the CCC will refer the matter back to the agency to investigate. The CCC then monitors the investigation and the agency has to report the outcome to the CCC.

Any information obtained, used or prepared by the agency as part of that investigation will also be exempt under the CCC exempt information provision.⁴

Will I be able to access this information as part of my RTI application?

If the investigation is not finalised you will not be able to access this information.

The exempt information provisions in Schedule 3 of the RTI Act set out information which Parliament has decided it is contrary to the public interest to release. If information falls into one of the exempt information provisions the agency is not required to release it.

Under the RTI Act, there is no scope for a decision maker to consider public interest factors favouring disclosure of information which is found to be exempt.

The Office of the Information Commissioner (**OIC**) has no power on external review to require the release of information that it has determined is exempt information.

Can I ever access this information?

You may be able to access some of this information once the CCC investigation is finalised, but only if it is information **about** you⁵. Generally, information is considered to be **about** the subject of the investigation and not about the person who made the complaint or third parties involved in the investigation⁶.

Even if the exception applies, the agency decision-maker may still need to consider the other access limitations in the RTI Act—including other exempt information provisions and the public interest factors. This means that you may be refused access to the information on a different basis even if you apply again once the CCC investigation is finalised.

For additional information and assistance please refer to the OIC's access guidelines or the [annotated legislation](#), or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.

⁴ *G8KPL2 v Department of Health* (Unreported, Queensland Information Commissioner, 31 January 2011).

⁵ RTI Act Schedule 3, section 10(6). This is referred to as the exception to the CCC exempt information provision.

⁶ *G8KPL2 v Department of Health* (Unreported, Queensland Information Commissioner, 31 January 2011).



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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

Published 27 August 2012 and Last Updated 1 July 2014

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