



Information Sheet

Guideline – *Right to Information Act 2009* and *Information Privacy Act 2009*

Overview of the application process: what to expect – a guide for applicants

Overview

The purpose of this information sheet is to provide you with an overview of what to expect after you have submitted a valid application requesting access to documents under the *Right to Information Act 2009* (Qld) (**RTI Act**) or the *Information Privacy Act 2009* (Qld) (**IP Act**).

How long will it take to process my application?

The standard time for an agency¹ to process an application is **25 business days** from the date they receive a valid application. This is referred to as the 'processing period' and does not include weekends or notified public holidays.

The processing period can be extended in some circumstances. For example, if a charges estimate notice is provided, the time taken for you to respond does not count as part of the processing period. In addition, if an agency needs to consult with a relevant third party, 10 business days will be added to the processing period.

An agency may ask you for an extension of time if they need longer to process the application. Reasons why an agency may require further time to process your application can vary, but may include situations where the agency has located a large number of documents relevant to your request or they are ensuring thorough searches have been carried out within all relevant areas of their agency, including regional offices where appropriate.

By agreeing to or accepting a request from an agency for further time to process your application you will still have your rights of review. If you do not specifically refuse the request for further time or respond, the agency is allowed to continue processing your application. However, if you do want to refuse the agency's request for further time, you will need to make this clear to the agency.

¹ In this information sheet all references to an 'agency' include Ministers, unless otherwise specified.



How much will it cost?

Access charges

There is no charge if you choose to receive the documents in electronic form (such as by email or on CD). If you would rather receive a photocopy of the documents, the cost is 25 cents per black and white A4 page.

Other access charges may apply, for example, the cost of copies of x-rays or for recordings to be transcribed.

Processing charges

You may have to pay processing charges for applications made under the RTI Act. There are no processing charges for applications made under the IP Act.

Processing charges include the time taken for the agency to process your application, for example, searching for or retrieving the documents and making a decision on the application. Processing charges are calculated on a per 15 minutes basis (or part thereof) for time spent dealing with your application. The agency cannot charge processing charges for documents which contain your personal information.

Financial hardship

If you are suffering financial hardship and satisfy the requirements under the legislation, you can apply for a waiver of processing and access charges. For further information please refer *Applying for financial hardship as an individual or Applications by non-profit organisations for financial hardship status*.

What is a charges estimate notice (CEN)?

This section—CENs and Schedules of Documents—is only relevant if you have applied under the RTI Act.

If your application has been made under the RTI Act, the agency will provide you with a written estimate of how much the processing of your application is likely to cost. This is called a 'charges estimate notice' or CEN.

The final charges payable upon completion of your application cannot be more than the amount quoted in the CEN. Any final processing or access charges must be paid before you can access any released documents.

If the agency spends less than 5 hours processing the application then there are no processing charges; however, you may still have to pay access charges.



Do I need to respond to a CEN?

When you receive the CEN you will have 20 business days to either:

- agree to the estimated charges
- narrow the scope of your application in order to reduce the estimated processing and access charges
- withdraw your application; or
- apply for a waiver of the processing and access charges on the grounds of financial hardship.

If the agency provides the schedule of documents (see below) with the CEN, it may assist you to identify the particular documents you wish to access from all of the relevant documents located. This could reduce the scope of your application and the estimated charges.

If you narrow or reduce the scope of your application, the agency will provide you with a second CEN. When you receive the second CEN you will have a further 20 business days to respond and either agree to the estimated charges or withdraw the application. An agency can only issue a maximum of two CENs so it is important to ensure that all of the discussion about reducing the scope of the application is completed before the second CEN is issued.

Note

If you have agreed to a CEN, you will still be liable to pay the final processing charges even if the agency's decision is to refuse full or part access to the documents requested.

What is a schedule of documents?

If your application was made under the RTI Act then the agency must give you a schedule of documents before the end of the processing period. There is no requirement for the agency to provide a schedule of documents if your application was made under the IP Act.

The schedule of documents sets out the number and types of documents the agency has located that are relevant to your application. If you wish, you can agree not to receive a schedule of documents.

Some agencies provide the schedule of documents with the CEN, however it may also be provided at another stage within the processing period.



The agency has told me they need to consult with third parties. What does this mean?

If an agency is considering releasing a document that contains information which may reasonably be expected to be of concern to a third party (such as a government, agency or person), the agency **must** take reasonable steps to obtain the views of the relevant third party. If an agency needs to consult with a third party, 10 business days will be added to the processing period.

Please note that the agency will determine whether the third party consultation process is necessary for your application based on the content of the documents being considered as part of your application.

Will I get access to the documents?

You may not get full access to all the documents you have requested. The RTI Act and IP Act set out certain types of information that an agency may decide not to release to an applicant, either because Parliament has decided that it is exempt information or because releasing it would be contrary to the public interest.

Public interest balancing test

When making a decision regarding access, the public interest test requires the agency to consider and compare all competing public interest factors, including factors favouring disclosure and non-disclosure.

The public interest is a complex legal concept, so you do not have to identify public interest factors as this is for the agency to determine.

Although there is no requirement for you to provide reasons why you are requesting access to the documents, in some cases it may be useful for the decision-maker to be aware of why you believe the documents should be disclosed so that all relevant public interest factors can be identified and taken into account. For example, a factor favouring disclosure may be that the documents assist you to pursue legal action, that the documents contain personal information of a family member who is now deceased.

For further information, please refer to the OIC Guideline: *Public interest balancing test*.



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Exempt information

There are some types of information that an agency may decide to refuse access to as it is exempt information. The RTI Act² sets out the types of information considered to be exempt information, for example:

- Cabinet information
- Information subject to legal professional privilege
- Information which could endanger a person's life if released
- National or State security information

Exempt information is information of a particular type which Parliament has considered would, on balance, be contrary to the public interest to disclose.

For further information please refer to the OIC Guideline: *Exempt information – overview*.

Explaining the decision notice and statement of reasons

When the agency has finished processing your application, they will send you a letter setting out their decision. The RTI Act and IP Act require that decision notices detail certain information regarding the processing and decision for an application, so it may be a lengthy and detailed document.

Generally speaking, if a decision refuses access to a document in full or in part, the decision notice must state the reasons for the decision to refuse access and set out your rights to seek a review of the decision.

Decisions for access applications under the IP Act may also refer to sections of the RTI Act. This is because the IP Act includes a provision that states that an agency may refuse access using the same grounds for refusal under the RTI Act. This includes any exempt information and consideration of the public interest factors for and against disclosure.

What are my review rights?

The RTI Act and IP Act give you the right to seek review of certain decisions under the legislation. An overview of these review rights, including Internal Review and External Review are outlined in the OIC information sheet: *Explaining your review rights – a guide for applicants*.

² See Schedule 3 of the RTI Act



What is a disclosure log?

An agency's disclosure log is a web page or a document that publishes a list of documents that an agency has already released under the RTI Act. There are no disclosure logs for applications and documents released under the IP Act.

The reason for disclosure logs is that if one applicant has expressed an interest in accessing particular documents then the same documents might be of interest to other members of the community.

There are different disclosure log requirements that may apply depending on whether you make your application to a department or Minister – or if you make your application to another agency, such as your local council and public authorities. For example, a department's or Minister's disclosure log will also provide certain details about your application once it has been made to that department or Minister.

What information about me and my application will be published on the disclosure log?

Departments and Ministers must publish certain information on their disclosure log – this includes the date of your application and details of the documents you are seeking.

If a department or Minister decides to release documents to you and the documents do not contain your personal information, those documents **must** be published on their disclosure log along with your name.

Agencies that are not departments and Ministers (such as councils and public authorities) are not required to publish details of the documents you are seeking. However, they may decide to place certain documents released under the RTI Act (that do not contain the applicant's personal information) on their disclosure log along with a summary that briefly explains the nature and context of the documents.

Agencies and Ministers may be required to delete information from details of the application and documents before publishing in a disclosure log, such as information that may be defamatory or is protected from disclosure under a contract.

For further information about disclosure logs it is recommend you discuss this with the agency you are applying to. Alternatively, please refer to the OIC Guidelines: *Disclosure logs – departments and Ministers* and *Disclosure logs – agencies other than departments and Ministers*.



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Other related information

For information about the RTI Act and IP Act or how to lodge a valid access application, please refer to [How do I apply for government documents?](#)

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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