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## 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 made to a Queensland government agency and are thinking of applying to access documents that formed part of the complaint process.

This Information Sheet does not cover workplace investigations. For those, please refer to [Applying for Workplace Investigation Documents](#).<sup>1</sup>

#### Can I apply for the 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.

If some of the documents you are applying for contain information that is exempt information, or information which is, on balance, 'contrary to the public interest' to disclose access to those documents will almost definitely be refused.

#### Example

Information that identifies the person who made a complaint is generally contrary to the public interest to disclose.

#### 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.

#### Example: 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

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<sup>1</sup> <http://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment>.



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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. For more information, refer to [What is Exempt Information](#).

### **What is contrary to the public interest information?**

The RTI Act contains lists of public interest factors, some favouring disclosing information and some favouring *not* disclosing information. When making a decision about whether or not to release a document, the decision maker will identify all relevant factors for and against disclosure and weigh them up. If the factors against disclosure outweigh the factors for disclosure, access will be refused because disclosure would, on balance, be contrary to the public interest to disclose.

For more information, refer to: [What is the public interest](#).

### **Public interest factors against disclosure**

#### ***Personal information of other people***

You will generally be given access to your own personal information, however releasing someone else's personal information (for example, their observations, opinions, concerns or recollections) has been found to be contrary to the public interest.

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.

If your personal information and someone else's personal information are so mixed together that they cannot be separated, then all of it may be contrary to the public interest to release to you.

#### **Example**

An emotional letter of complaint written by Bob about Tom that contains Bob's thoughts and feelings may be written in a way that means Bob's information can't be separated from Tom's. In that case, if Tom applies, access to the whole letter may be refused.

#### ***Prejudice the flow of information***

It has been previously decided that releasing information that could prejudice the flow of confidential information to government is contrary to the public interest. This is the case even where it might result in an agency investigating false complaints or unsubstantiated allegations.



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Witnesses and complainants understand that the information they provide to investigators will be held in confidence. If they would be less likely to provide that information in the future if it was released then that kind of information is unlikely to 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](mailto: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](mailto:feedback@oic.qld.gov.au).

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