

# Right to information policy

## Policy statement

The Department of State Development, Manufacturing, Infrastructure and Planning (the department) is committed to giving the community greater access to government-held information where it is in the public interest to do so.

The department recognises that public access to information can:

- keep the community informed of government's operations and promote open discussion of public affairs
- enhance the accountability of government
- increase the participation of the community in democratic process leading to better informed decision-making.

## Background and context

The *Right to Information Act 2009* (RTI Act) and *Information Privacy Act 2009* (IP Act) are transparency and accountability measures adopted by the Queensland Government to maximise community access to information in the government's possession or under the government's control.

The RTI Act gives the public a right to access government information unless disclosure would be contrary to the public interest. It also places obligations on the department to:

- have a publication scheme and proactively release information by publishing information about its policies, structure and activities on its publication scheme
- release information administratively where appropriate (that is, outside of the formal statutory process such as under the RTI or IP Acts), so that formal access applications for documents are only required as a last resort
- publish documents released in response to formal access applications to a disclosure log (subject to limited exceptions).

The IP Act works in parallel with the RTI Act and gives individuals a right to access and amend their personal information that is held by the government.

The RTI Act and IP Act expressly outline how an access application should be processed and the grounds on which decisions to give or refuse access to documents must be based.

For applications made to the department, access under the legislation can only be decided by the Director-General, as the principal officer of the department, or officers that are delegated statutory powers to deal with applications (RTI Decision-Makers).

Under the legislation, access must be given to documents unless doing so would be contrary to the public interest.

The Office of the Information Commissioner issued [model protocols for Queensland Government departments on reporting to Ministers and senior executives on right to information and information privacy applications](#) (the model protocols). This policy supports the department's commitment to operating consistent with the model protocols.

The RTI and IP Acts have implications for all employees because they are all involved in the process of creating and managing records and may also be required to search for documents requested in an application made to the department under the RTI or IP Act. Privacy obligations in the IP Act, including the Information Privacy Principles (IPPs), concerning storage, use and disclosure of personal information apply to the department and Ministers.

## Scope

This policy applies to:

- all employees of the department and non-employees including contractors, consultants, volunteers and any other person or entity who provides the department with services on a paid or voluntary basis
- all formal access applications made to the department under the RTI or IP Act
- all briefing and reporting activities of the department that concern right to information and information privacy access applications.

This policy does not replace, modify or revoke any legislative or administrative requirements or processes that apply to the publication or release of information (e.g. requirements to make information available under law, complaints processes, requests for information that are primarily contractual disputes or usual business practices involving releases of information).

This policy also is not intended to interfere with, or restrict, business areas routinely releasing information that is necessary in the course of performing day-to-day functions and activities.

## Definitions

See **Appendix A** for definitions of key terms referred to in this policy.

## Key principles

Formal access applications under the RTI or IP Act should only be necessary as a last resort<sup>1</sup>

Proactive release of information may be appropriate where:

- there is demand for access to the requested information; and
- there are no significant adverse effects as a result of proactively disclosing the information; and
- the information involved is of a kind that would be released if it was generally requested under the RTI Act

Persons may apply under the RTI or IP Acts (whichever is appropriate) for access to information that cannot or has not been administratively released

RTI and good record keeping is every staff members' responsibility. It is important for all employees to understand their role in meeting the department's commitment to open government and compliance with the RTI and IP Acts.

Ministers and Directors-General are entitled to be briefed on access applications made under the RTI and IP Acts, insofar as they are relevant to their respective responsibilities.

RTI and IP reporting and requests for briefings must be managed in a manner which does not impact on statutory timeframes and that meets privacy obligations in the IP Act, including the IPPs. RTI and IP reporting is not a sound basis on which to ask an applicant for further time to consider an application and make a decision about access.

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<sup>1</sup> As outlined in the preamble to the RTI Act.

## Reporting

### Weekly reporting to the Minister and senior executives

The Right to Information Unit provide a weekly report to the Director-General, Deputy Directors-General, staff of the Office of the Minister and other staff of the department on the following:

- the progress of current and completed access and amendment applications made to the department and the Minister
- internal review applications to the department and Minister
- external review applications made to the Office of the Information Commissioner
- consultations received from other agencies under the RTI Act (or equivalent legislation).

Recipients of the weekly report may determine further recipients of the report on a need-to-know basis, consistent with the IP Act. This reporting is for the express purpose of providing information only.

### Reporting of decision outcomes

The Right to Information Unit may provide staff of the Office of the Minister and the department (including the Director-General and Deputy Directors-General) with documents released in response to significant applications made under the RTI Act.

Documents are provided for information purposes only to allow the Minister and/or the department to prepare for public debate.

## Offences

Under the RTI and IP Acts it is an offence to direct a person to make a decision the person believes is not the decision that should be made. It is also an offence to direct an employee or officer of the agency or Minister to act in a way contrary to the legislative requirements.

## Responsibilities and accountabilities

| Role                     | Responsibilities  |
|--------------------------|---|
| All employees            | <ul style="list-style-type: none"> <li>• Maintain good record keeping practices and keep up-to-date and accurate records, allowing information applied for under an access application to be readily identified and located</li> <li>• Promptly send formal access applications and requests for information that can't be dealt with informally to the Right to Information Unit</li> <li>• If asked to conduct searches for documents applied for under an access application, conduct thorough searches for relevant documents ensuring that complete copies of all relevant documents are provided to the Right to Information Unit within required timeframes</li> <li>• Ensure that privacy obligations in the IP Act and the IPPs are met in dealing with personal information.</li> </ul> |
| Managers and supervisors | <ul style="list-style-type: none"> <li>• Ensure employees under their supervision are aware of, and support, the principles of the RTI and IP Acts.</li> <li>• Encourage, demonstrate and model ethical conduct in their teams / units.</li> </ul>  |

| Role   | Responsibilities  |
|--|---|
| <b>Delegate (RTI Decision Maker)</b>               | <ul style="list-style-type: none"> <li>Exercise delegated powers under the RTI and IP Acts, including making decisions on the release of requested documents and dealing with internal review applications.</li> <li>Exercise delegated powers in accordance with all relevant statutory provisions, whole-of-government policy and directives and principles of procedural fairness.</li> </ul>  |
| <b>Right to Information Unit (RTI Unit)</b>        | <ul style="list-style-type: none"> <li>Provide advice and direction to the department and the Minister on the application of the RTI and IP Acts, as required</li> <li>Ensure timely and appropriate reporting and briefings to the Minister and senior executives on right to information and information privacy applications, relevant to their respective responsibilities</li> <li>Maintain a written policy document (e.g. this policy) to ensure transparency of the scope and purpose of RTI and IP reporting and briefing processes.</li> </ul>  |
| <b>Executive Leadership Team (ELT)</b>             | <ul style="list-style-type: none"> <li>Foster an ethical culture of the department including a commitment to maximising proactive release of government-held information</li> <li>Ensure that reporting and requests for briefings on right to information and information privacy applications does not impact on statutory timeframes and meets privacy obligations in the IP Act and the IPPs.</li> </ul>  |
| <b>Director-General (DG) (accountable officer)</b> | <ul style="list-style-type: none"> <li>Set the ethical culture of the department including a commitment to maximising proactive release of government-held information</li> <li>Appropriately delegate powers under the RTI and IP Acts to ensure that the department complies with the legislation</li> <li>Personally make decisions on the release of requested documents where the Director-General disagrees with a decision proposed to be made by an RTI Decision Maker</li> <li>Establish reporting processes for being informed about access applications made under the RTI and IP Acts</li> <li>Ensure that reporting and requests for briefings on right to information and information privacy applications does not impact on statutory timeframes and meets privacy obligations in the IP Act and the IPPs.</li> </ul> |

## Reference documents

- [Acts Interpretation Act 1954](#)
- [Right to Information Act 2009](#)
- [Information Privacy Act 2009](#)
- [Public Records Act 2002](#)
- [Ministerial Guidelines – Operation of publication documents and disclosure logs](#)
- [Model protocols for Queensland Government departments on reporting to Ministers and senior executives on Right to Information and information privacy applications](#)

## Related documents

- [Administrative release policy \(D19/177792\)](#)
- [Information privacy policy \(D19/177791\)](#)
- [Information Privacy delegations and ministerial directions \(DSDMIP employees only\)](#)
- [Right to Information delegations and ministerial directions \(DSDMIP employees only\)](#)

## Document control

|                               |                   |  |  |   |
|-------------------------------|-------------------|--|--|---|
| <b>Document owner</b>         |                   | Executive Director and Chief Information Officer, Business Systems and Solutions<br>Business, Commercial and Performance |  |   |
| <b>Contact details</b>        |                   | <a href="mailto:righttoinformation@dsmip.qld.gov.au"><u>righttoinformation@dsmip.qld.gov.au</u></a>                      |  |   |
| <b>Next review (annually)</b> |                   | July 2020  |  |   |
| <b>Supersedes</b>             |                   | N/A (New policy)   |  |   |
| <b>Version</b>                | <b>Issue Date</b> | <b>Reason</b>  | <b>Author</b>  | <b>Approver</b>   |
| 1.0                           | 05/08/2019        | New policy   | Principal RTI Officer,<br>Business Systems and Solutions | Deputy Director-General, Business, Commercial and Performance |

## Appendix A – Definitions

The key terms referred to in this policy are as follows:

| Term  | Definition   |
|---|--|
| <b>Access application</b>   | <p>A formal application made under the RTI or IP Act requesting access to a document(s).</p> <p>Access applications made under the RTI or IP Acts can be for documents that are in the possession or under the control of the department. This means that someone can apply to access documents that are:</p> <ul style="list-style-type: none"> <li>held by the department, even if they are not owned by the department (e.g. documents created by external stakeholders, or personal emails stored on the agency email servers)</li> <li>not held by the department, but which the department is entitled to access (e.g. records of a contractor that the department has a legal right to access or work records held by departmental employees at home or on personal mobile phone or other electronic devices).</li> </ul> |
| <b>Administrative access (also known as administrative release)</b> | See definition of 'Administrative release'.  |
| <b>Administrative release (also known as administrative access)</b> | The release of information by means other than under a formal access application under the RTI or IP Act.  |
| <b>Applicant</b>  | The person by whom, or on whose behalf, an application for access to a document is made under the RTI or IP Act.   |
| <b>Delegate</b>   | The person authorised to perform a specific task or function on the Director-General or Minister's behalf. Delegations and authorisations are recorded in the department's delegation schedules.   |
| <b>Delegate</b>   | The person authorised to perform a specific task or function on the Director-General or Minister's behalf. Delegations and authorisations are recorded in the department's delegation schedules.   |
| <b>Disclosure log</b>   | <p>A web page that sets out information about formal access applications the department has received under the RTI Act and makes documents released to applicants available to the public.</p> <p>The disclosure log must be maintained in accordance with section 78 of the RTI Act and relevant Ministerial guidelines.</p>  |
| <b>Document</b>   | <p>For the purpose of the RTI and IP Acts, a 'document' is defined in the <i>Acts Interpretation Act 1954</i> (Qld) to include:</p> <ul style="list-style-type: none"> <li>any paper or other material on which there is writing</li> <li>any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; and</li> <li>any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).</li> </ul>  |

| Term   | Definition  |
|--|---|
|  | <p>This is a non-exhaustive definition and it therefore does not exclude or limit the type of articles that may be considered to be 'documents.'</p> <p>The definition of document is broader than the definition of 'public record' under the <i>Public Records Act 2002</i>, and therefore applications under the RTI and IP Acts can apply for documents irrespective of their content.</p>  |
| <b>Information Privacy Principles (IPPs)</b> | The Information Privacy Principles set out in schedule 3 of the <i>Information Privacy Act 2009</i> .   |
| <b>IP Act</b>                                | <i>Information Privacy Act 2009</i>   |
| <b>Ministerial guidelines</b>                | <u><b>Ministerial guidelines for the operation of publication schemes and disclosure logs</b></u> , as issued by the Attorney-General for the purposes of section 21(3) and section 78(B)(1) of the RTI Act.  |
| <b>Public interest</b>                       | The term 'public interest' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. Public interest considerations are generally common to all members of, or a substantial segment of, the community, as distinct from matters that concern private or personal interests. However, some public interest considerations can apply for the benefit of an individual.   |
| <b>Public record</b>                         | <p>Any record defined as a public record under section 6 of the Public Records Act 2002 including:</p> <ul style="list-style-type: none"> <li>• any record created, received or kept by a public authority in the course of their business or conduct of their affairs</li> <li>• a Ministerial record</li> <li>• a record of an Assistant Minister</li> <li>• a copy of a public record or</li> <li>• a part of or a copy of a part of a public record.</li> </ul>   |
| <b>Publication scheme</b>                    | <p>A web page that is designed to act as a 'route map' to assist people in finding key information that each agency routinely publishes.</p> <p>Publication schemes must be managed in accordance with the <u><b>Ministerial guidelines for the operation of publication schemes and disclosure logs</b></u> (the Ministerial Guidelines).</p> <p>Information is grouped and accessible through the following seven categories:</p> <ul style="list-style-type: none"> <li>• About us - who we are and what we do</li> <li>• Our services - services offered by our department</li> <li>• Our finances - what we spend and how we spend it</li> <li>• Our priorities - what our priorities are and how we are doing</li> <li>• Our decisions - how we make decisions</li> <li>• Our policies - our policies and procedures</li> <li>• Our lists - lists and registers produced by the department.</li> </ul> <p>Information included in the publication scheme must be:</p> <ul style="list-style-type: none"> <li>• significant – e.g. key initiatives and policy documents</li> <li>• appropriate - having regard to existing legislation, privacy principles and security issues</li> <li>• accurate - in terms of what has already been published, or what may be published on the particular topic.</li> </ul> |

| Term                      | Definition   |
|---------------------------|--|
| <b>RTI</b>                | Right to information.  |
| <b>RTI Act</b>            | <i>Right to Information Act 2009</i>   |
| <b>RTI Decision Maker</b> | An officer to whom the Director-General has formally delegated powers to deal with applications under the RTI and/or IP Acts. Delegations are recorded in the department's delegation schedules. |