



Publication Scheme

How do I access the Office of the Information Commissioner's information?

Our information may be accessed through our publication scheme or following a request for information to be released administratively.

Information appearing in our publication scheme is accessible from this [website](#) through the links provided. If you cannot access information, or have difficulty accessing electronic publications, please contact the Office enquiry service on telephone: (07) 3234 7373 or by email at enquiries@oic.qld.gov.au. In most cases, we will provide printed copies of information we have produced at no cost.

While our Office is committed to providing information to the community, the [Right to Information Act 2009](#) (RTI Act) and [Information Privacy Act 2009](#) (IP Act) provide for limited rights of access and amendment to documents of the Office. This is to ensure the Office can effectively perform its role in an independent and impartial manner.¹ The only access and amendment applications that can be made to the Office are those that relate to the personal information of Office staff, under the IP Act.

Does the Office publish a disclosure log?

The RTI Act provides for agencies to publish 'disclosure logs' of selected information to which access has already been provided following an RTI application. However, as the RTI Act provides that access applications cannot be made to the Office, we do not have information which falls into this category. However, a range of other information is published by the Office, as set out in our publication scheme.

Requests for Information

In addition to providing information under its publication scheme, the Office may release information administratively on request, if this may be done without disclosing personal information or other information which should remain confidential. The Office will consider any request to provide information.

Does the Office publish all the information it holds?

Prior to 1 July 2009 most of the information collected and generated by the Office is for the purpose of our external review function. This includes personal information of applicants and other people affected by a review, submissions and other evidence, and information supplied by agencies and Ministers, including information that is claimed to be exempt and in issue in a review. There are legal restrictions on the publication of this information. Section 179 of the RTI Act and section 188 of the IP Act prohibit the Commissioner and staff from disclosing information obtained in the course of the performance of functions under the RTI Act, other than for the purposes of the RTI Act or a proceeding arising under the RTI Act.²

¹ See section 26 of the RTI Act and section 46 of the IP Act. Under section 12 of the repealed *Freedom of Information Act 1992* (FOI Act), the provisions of that Act providing for access to documents and amendment of personal affairs information did not apply to the Commissioner.

² Similar provisions exist under the repealed FOI Act, which continue to apply to existing external review applications. See section 93 of the FOI Act.



However, where a decision is required in order to finalise an external review, written reasons for the decision will set out relevant information on which the decision is based and the steps taken in the course of the review, except for certain exempt or confidential information.

From 1 July 2009 the Office is performing new functions under the RTI Act and the IP Act, and therefore different types of information will be held by the Office and published on our website. Our publication scheme will be reviewed regularly to include such new information.

The Office also collects personal and other information in the course of its complaint management, administrative and human resource functions. Publication of this personal information may be in breach of Information Privacy Principles under the IP Act. This means that not all the Office's information is published.

Our Publication Scheme

Our publication scheme describes and categorises information routinely available from the Office, and reflects our commitment, consistent with the spirit of the RTI Act, to maximise the information we provide to the community. This information is grouped and accessible through seven classes: About us; Our services; Our finances; Our priorities; Our decisions; Our policies and Our lists.

About us: who we are and what we do

The Office of the Information Commissioner is Queensland's independent body under the RTI Act to promote access to government-held information; and to protect people's personal information held by government under the IP Act. The Office of the Information Commissioner was established by Part 5A of the *Freedom of Information Act 1992* (FOI Act) and is continued in existence under section 123 of the RTI Act.

The Office is responsible for providing information and assistance to Queensland government agencies (such as state government departments, local councils and universities), Ministers and the community to support agencies to comply with these laws; and for monitoring and reporting on the performance of government agencies.

The Office also reviews specific agency decisions under these laws regarding access and amendment applications, deals with privacy complaints and makes certain decisions, including whether an agency's privacy obligations can be waived or modified in the public interest.

Information Commissioner

The Information Commissioner is an officer of the Queensland Parliament, appointed by the Governor in Council under the RTI Act. The Information Commissioner is independent of the executive government and reports to the Parliament through the Law, Justice and Safety Committee (LJSC).

Julie Kinross was appointed as Acting Information Commissioner on 14 April 2008 under the repealed FOI Act. Under the RTI Act, the person who immediately before the commencement of the RTI Act was the acting information commissioner under the repealed FOI Act, continues as the acting information commissioner until an appointment is made under section 134 or 143 of the RTI Act.



The Information Commissioner has a critical support role to assist agencies and the community to proactively provide and seek government-held information by training and educating agency staff, raising awareness in the community and promoting best practice around RTI and IP in the public sector.

Further information about Ms Kinross' qualifications and experience is available [here](#).

The RTI Act and the IP Act provide for a RTI Commissioner and a Privacy Commissioner to be established. The Information Commissioner can delegate functions under those Acts to the RTI Commissioner and Privacy Commissioner respectively, as deputy commissioners.

Part 2 of Chapter 4 of the RTI Act details the Information Commissioner's powers, responsibilities and functions. In combination with the powers, responsibilities and functions under the IP Act, the Information Commissioner's role is significantly broader than under the FOI Act. The Commissioner has a range of new and enhanced functions and responsibilities.

Functions and responsibilities of the Information Commissioner

From 1 July 2009 the Information Commissioner performs a range of functions under the RTI Act and the IP Act.

The RTI Act provides that the Information Commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of the commissioner's functions under an Act.

Support functions

The Office supports Queensland government agencies (such as state government departments, local councils and universities), Ministers and the community to understand and comply with the RTI Act and the IP Act through providing training, information and assistance.

The Office is publishing a range of information resources, including guidelines regarding the interpretation and administration of the RTI Act and the IP Act as set out below.

[Right to Information Guidelines](#)

Introduction and overview

- Which Act applies?
 - a guide for agencies
 - a guide for the community
- RTI Act - Introduction and Overview
- Proactive disclosure and Publication Schemes
- Administrative release of information
- RTI Act and FOI Act differences
- Right of access
- What is personal information



Processing

- Processing access applications
- Searching for documents
 - Searching for documents - Appendix 1 Document retrieval request
 - Searching for documents - Appendix 2 Record of searches
 - Searching for documents - Appendix 3 Schedule for decision makers
- Applications by and on behalf of children (coming soon)
- Timeframes for access and amendment
- Disclosure logs
- Fees and charges
- Providing access to documents

Decision Making

- Delegations/Decision making (*coming soon*)
- Exempt information - Overview
- Exempt information - Breach of confidence (*coming soon*)
- Exempt information - Cabinet (*coming soon*)
- Exempt information - Contempt of Court/Parliament (*coming soon*)
- Exempt information - Disclosure prohibited by Act (*coming soon*)
- Exempt information - Executive Council (*coming soon*)
- Exempt information - Investment incentive scheme (*coming soon*)
- Exempt information - Law Enforcement and public safety
- Exempt information - Legal Professional Privilege
- Exempt information - Ministerial briefing materials (*coming soon*)
- Exempt information - National/State security (*coming soon*)
- Exempt information - Sovereign communication (*coming soon*)
- Public interest balancing test
 - Preliminary checklist
 - Irrelevant factors
 - Overview
- Statement of Reasons
 - Statement of Reasons - Appendix 1 Flowchart guide for decision makers
 - Statement of Reasons - Appendix 2 Sample Decision

Review – internal and external & IC functions

- Internal Review (*coming soon*)
- External Review
 - External Review - Part 1 Overview
 - External Review - Part 2 Informal Resolution
 - External Review - Part 3 Timeframe
- Financial hardship status for non-profit organisations



Information Privacy Guidelines

Introduction and Overview

- What's new in the IP Act (with comparison table) (*coming soon*)
- What is personal information?
- Your privacy rights (*coming soon*)
- The Information Commissioner and Privacy Commissioner (*coming soon*)

Access and Amendment under the Information Privacy Act

- Which Act applies
 - a guide for agencies
 - a guide for the community
- Access to and amendment of Personal Information under the *Information Privacy Act*
- Timeframes for access and amendment

Also see the Right to Information Guidelines on Decision-making and Review

Information Privacy

- Privacy Guidelines (complete - 1.5mb)
- Privacy Guideline Section 1 – Introduction to the privacy guidelines
- Privacy Guideline Section 2 – Overview of the privacy guidelines
- Privacy Guideline Section 3 – Application of the *Information Privacy Act 2009*
- Privacy Guideline Section 4 – Key concepts
- Privacy Guideline Section 5 – Contracted Service Providers
- Privacy Guideline Section 6 – Transfer out of Queensland
- Privacy Guideline Section 7 – Privacy complaints
- Privacy Guideline Section 8 – Compliance notices
- Privacy Guideline Section 9 – Public Interest Approvals
- Privacy Guideline Section 10 – Compliance with the privacy principles
- Privacy Guideline Section 11 – the Information Privacy Principles
- Privacy Guideline Section 12 – the National Privacy Principles

- Making a privacy complaint (*coming soon*)
- Routine personal work information of public servants

Privacy Tools

- Privacy breach management and notification



[Frequently asked questions, training and enquiry service](#)

A list of [frequently asked questions](#) is also available here.

Information on the Office's [training](#) initiatives is available here.

Agencies and the community can also contact our enquiry service for assistance on 07 3234 7373 or by email to enquiries@oic.qld.gov.au regarding specific enquiries about how the RTI Act or IP Act apply.

The support functions of the Information Commissioner are outlined in section 128 of the RTI Act and section 135 of the IP Act. The RTI Act and IP Act specifically provide the Information Commissioner with the power to issue guidelines about a matter for or in connection with any of the Information Commissioner's functions.

Decision making functions

The Information Commissioner has responsibility for making a range of decisions under the RTI Act and the IP Act including:

- Applications from non-profit organisations for financial hardship status under section 67 of the RTI Act
- Applications for extension of time under Schedule 4, Part 4, item 1 of RTI Act
- Making, varying or revoking declarations that a person is a vexatious applicant under section 114 or 115 of the RTI Act or 127 or 128 of the IP Act
- Waiving or modifying privacy principles obligations under Part 5 of the IP Act
- Issuing compliance notices under Part 6 of the IP Act

Information on specific decisions and the process of the Office is contained in the relevant guidelines linked above.

[Decisions](#) made by the Information Commissioner are available here.

The power to make such decisions is set out in section 129 of the RTI Act and section 136 of the IP Act. The Information Commissioner also makes decisions in relation to the external review functions below.



External review functions

The Information Commissioner can conduct independent external review of decisions made by government agencies under the RTI Act, the IP Act and the repealed FOI Act regarding access and amendment of documents.

Information about [how to apply for an external review](#) is available here.

Information about the external review process, including timeframes and informal resolution, is set out in the [external review guidelines](#).

Decisions of the Information Commissioner externally reviewing government agency decisions under the RTI Act, IP Act or FOI Act are available [here](#).

Privacy Complaint functions

Under the IP Act where an individual believes an agency has breached the privacy principles or a public interest approval in relation to their personal information, they will be able to make a complaint to the relevant agency.

If the individual is not satisfied with how an agency handled their complaint, they will be able to make a complaint to the Information Commissioner in accordance with the requirements of the legislation.

The Information Commissioner will perform the following functions in relation to privacy complaints:

- assess the privacy complaint; and, if accepted
- mediate the privacy complaint; and if not resolved
- refer the privacy complaint to the Queensland Civil and Administrative Tribunal for determination.

Chapter 5 of the IP Act, privacy complaints, will not commence at the same time as the rest of the Act. It will commence when the Queensland Civil and Administrative Tribunal begins operation.

This means that individuals wishing to make a privacy complaint have the avenues which were available before the IP Act commenced, ie making a complaint to the agency and if not satisfactorily resolved, making a complaint to the Queensland Ombudsman.

Issuing compliance notices

Compliance notices may be issued to enforce agencies' obligations to comply with privacy principles. This role is outlined in Chapter 4, Part 6 the IP Act.

Information about compliance notices issued by the Information Commissioner will be available soon.



Performance monitoring functions

The Information Commissioner's functions under the RTI Act and IP Act include performance monitoring and reporting regarding agency compliance with the legislation. These functions are an important part of the Commissioner's role in identifying issues and supporting improvement in the administration of the legislation across the Queensland public sector. The Commissioner reports to the Parliamentary Law, Justice and Safety Committee on such monitoring.

Performance monitoring and reporting can include:

- Annual report cards on agency compliance
- Specific investigations regarding an agency, part of the Queensland public sector (eg local government) or issue including:
 - on the Information Commissioner's own initiative or otherwise, conducting reviews into personal information handling practices, and reporting on findings
 - leading public sector improvements by conducting compliance audits to assess compliance with privacy principles.
- Publishing performance standards and measures to be used for reporting
- Reports analysing agency data set out in the Minister's annual report on RTI

These functions are outlined in section 131 of the RTI Act and section 135 of the IP Act.

The performance monitoring and reporting functions of the Information Commissioner commenced on 1 July 2009. Future performance monitoring reports and information will be published [here](#).



FOI Act functions continue

Under section 199 of the RTI Act, the FOI Act continues to apply in relation to applications under the FOI Act that have not been finalised. This means the Office will continue to investigate and review decisions of government agencies and Ministers made under the FOI Act and may conduct a complete review of the merits of those decisions.

Decisions of the Commissioner regarding applications under the FOI Act are available [here](#).

Our accountability

The Office is accountable to the community through the Queensland Parliament's Law, Justice and Safety Committee. This committee was formerly the Legal, Constitutional and Administrative Review Committee (LCARC). Key elements of our governance and accountability framework include:

- our annual report to Parliament
- twice yearly meetings with the Parliamentary Committee to discuss issues such as the Office's activities, work output, budget, annual report and any other significant issue, as reported and tabled in Parliament
- our Service Delivery Statement for the 2009-10 State Budget, and Estimates Committee consideration as part of the budget process
- independent strategic reviews of the Office, conducted at least every five years.

The following documents provide further detail about the structure and responsibilities of the Office:

- the [2008-12 Strategic Plan](#) for the Office of the Information Commissioner
- the [2007-08 Annual Report](#) of the Office of the Information Commissioner
- the Office's [2008 statement of affairs](#)

Certain decisions made, including external review decisions, by the Information Commissioner are [reviewable by the Supreme Court of Queensland](#) under the *Judicial Review Act 1991*. External review decisions made by the Information Commissioner under the RTI and IP legislation are also reviewable by the Queensland Civil and Administrative Tribunal when it commences operations.

Our contact details

The contact details for the Office are available [here](#).



Our services: the services we offer

The Office is an independent statutory body, with responsibility for conducting a wide range of other functions as set out above. Services we provide to agencies, the community and the Parliamentary Law, Justice and Safety Committee include:

- External review - conducting independent and impartial reviews of decisions about access to documents under the FOI Act, RTI Act and IP Act and amendment of documents under the IP Act
 - [Information for External Review Applicants](#) (FOI Act)
 - [External Review Process Guidelines](#)
 - [Apply online](#) or print an application form
- Privacy Complaint – dealing with privacy complaints by mediating complaints where appropriate, and referring unresolved complaints to the Queensland Civil and Administrative Tribunal
- [Privacy Complaint Guidelines](#)
- Information and assistance - providing advice and assistance to applicants to understand their rights under the RTI Act and the IP Act, through online [information resources](#), [training](#) and an [enquiry service](#)
- [Performance monitoring and review](#) – monitoring and reporting on agency compliance with the RTI Act and the IP Act

Our finances: what we spend and how we spend it

Information about our financial performance is detailed in our annual reports. Relevant information for 2007-08 is on page 28 of that year's [Annual Report](#) and projections are detailed in the [Service Delivery Statement for 2009-10](#).

Our priorities (and how they are changing):

The Office's 2008-12 [Strategic Plan](#) addresses our role in relation to the repealed FOI Act and sets out our strategic goals, strategies to achieve them, and performance targets. Information on how we have performed against these targets is contained in our [Annual Reports](#), the [Service Delivery Statement for 2009-10](#) and [reports of meetings with the Parliamentary Committee](#) tabled in Parliament.

While the Office will continue to ensure its existing external review functions are maintained, the Office's priorities for 2008-09 have involved preparing for the implementation of the RTI Act, and aligning its priorities and Strategic Plan with its new roles, responsibilities and functions under the RTI Act and IP Act as set out above. Our Strategic Plan is currently being updated to reflect these changes. The new Strategic Plan, including the strategic goals and related strategies, will be published on this site shortly.



Our decisions: how we make decisions

The Information Commissioner has power to make a number of decisions under the RTI Act, the IP Act and the repealed FOI Act as set out below.

External review

The Commissioner makes independent impartial decisions, reviewing certain decisions made by agencies and Ministers under the RTI Act, the IP Act and the repealed FOI Act regarding access to and amendment of documents.

Reviews are conducted fairly, with minimal formality and technicality, and as expeditiously as possible. The Office aims to informally resolve matters by facilitating agreement between the parties, and about 75% of applications are finalised without a formal decision. If there are unresolved issues, the Information Commissioner will consider them before making a written decision that replaces the decision of the agency or Minister.

The Commissioner's external review powers

The Commissioner has the power to do all things necessary to conduct a review, including powers to:

- attempt to achieve informal resolution
- require the production of documents and information from agencies and any other person
- determine the procedures to be followed in a review and give directions; and
- refuse to review a decision if the application is frivolous, vexatious, misconceived or lacking in substance.

Steps involved in making external review decisions

The external review process can contain some or all of the following steps:

- assessment of each application: to establish whether the Office has jurisdiction to conduct a review and decide how the review will progress
- preliminary inquiries of the applicant or the agency to:
 - determine whether or not the Commissioner has power to review the matter
 - decide not to review the matter for another reason
 - learn about relevant background to the case
 - explore whether there is any way to informally settle the dispute; and
 - reduce the number of issues in dispute
- notification that a decision is to be reviewed



- **scoping:** gathering all the relevant documents and clarifying with the applicant what information they are seeking. The Office will also clarify the issues of contention in the review with a focus on narrowing the issues
- **submissions:** from the parties, as appropriate. There is an onus on the agency which made the decision to establish that the decision was justified or that the Commissioner should give a decision adverse to the applicant
- **mediation/informal resolution:** the Office tries to resolve the issues in contention with as little formality and technicality as possible. Informal resolution can take place at any point during the review
- **preliminary view:** where issues cannot be resolved, or where the Commissioner is proposing to make a decision which affects the parties' interests, the Commissioner will prepare a preliminary view, setting out the relevant facts and law. The purpose of the preliminary view is to elicit submissions from the parties on matters that affect their interests before a decision is made. The parties are usually given 14 days to provide submissions. Many applications are resolved at this point
- **formal written decision:** where there remain issues in contention, or where the parties have made submissions in relation to preliminary views, the Commissioner will make a written decision. At this stage the application is finalised.

More information about this process is in the [External Review Guidelines](#), including timeframes. Because the Office's external review role is similar to a judicial one, there are only limited opportunities for members of the public to participate in our decision making functions. However, a person may be required to participate in a review if their interests may be affected by our decision (for example, if they are named in a document in a way that would disclose information about their personal or business affairs, and another person seeks access to that document).

Other decisions

The Information Commissioner has power to make a number of other decisions under the RTI Act and IP Act regarding:

- Applications from non-profit organisations for financial hardship status under section 67 of the RTI Act so that access and processing charges are waived. The Commissioner's decision is valid for 1 year, unless it is revoked during that time. Further information on this decision is set out in the guideline soon to be available on our website.
- Applications for extension of time under Schedule 4, Part 4, item 1 of RTI Act that the 10 year period should be extended in relation to information affecting relations with other governments where it is in the public interest to do so. For further information refer to the [Public Interest Test Guidelines](#).
- Making, varying or revoking declarations that a person is a vexatious applicant under section 114 or 115 of the RTI Act or 127 or 128 of the IP Act. If a person is declared a vexatious applicant the Commissioner can impose conditions restricting their ability to make an access application or review application.



- Waiving or modifying privacy principles obligations under Chapter 4, Part 5 of the IP Act. The Commissioner may decide to waive or modify how the privacy principles apply if they are satisfied that the public interest in the agency's compliance with the privacy principles is outweighed by the public interest in waiving or modifying the obligations to the extent set out in the decision. For further information regarding this type of decision refer to the [guideline](#).
- Issuing compliance notices under Chapter 4, Part 6 of the IP Act. The Commissioner may decide to issue a compliance notice to enforce agencies' obligations to comply with the privacy principles. For further information regarding this type of decision refer to the [guideline](#).

Decisions published by the Information Commissioner are available [here](#).

Our policies: policies and procedures

The Office has a number of policies and procedures which affect the rights of members of the public. Most significant are the following:

- the Office's [complaints procedure](#)
- the Office's [Privacy Plan](#)
- the Office's Code of Conduct (reviewed in 2007-08). This Code is consistent with requirements under the *Public Service Act 1996*, the *Public Sector Ethics Act 1994*, and the relevant policies and directives.

Our Lists: Lists and Registers

The Information Commissioner publishes [decisions](#) in accordance with the RTI Act, the IP Act and the repealed FOI Act on our website.

Providing feedback on our processes

Feedback on the Office's processes is welcome at any time and will be used to analyse and improve our performance. Surveys of all applicants are conducted at the conclusion of external reviews to gauge their satisfaction with our process and assist us in making the process as simple and efficient as possible. We also regularly seek feedback from agencies in a number of ways, including through surveys. The [Service Delivery Statement for the 2009-10 State Budget](#) sets out the results of relevant surveys, as well as other information about the Office's performance.

Providing feedback on our Publication Scheme

Are there additional documents you would like to see us publish? Do you have any other comments about our publication scheme? If so, please email us at feedback@oic.qld.gov.au or [contact us](#) and let us know. We are keen to have a publication scheme which contains information people want and need. We will continuously review our publication scheme to ensure it contains the most relevant and up to date information.