



Interpreting the legislation – *Right to Information Act 2009*

Administrative release of information

Section 5 of the Right to Information Act 2009

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1.0 Overview

This Guideline explains the concept of administrative access to information and how it supports proactive disclosure of information. It also identifies the type of information most suited to release under an administrative access scheme, and the considerations which should be taken into account in providing such information. The Guideline identifies circumstances when it is more appropriate that requests for information be made under the *Right to Information Act 2009* (Qld) (**RTI Act**) or the *Information Privacy Act 2009* (Qld) (**IP Act**).

The RTI and IP Acts require government agencies to make information available to the public unless there is a good reason not to. Government-held information should, where possible, be given through informal means like an agency's website, publication scheme, or through administrative release.

A formal application for government-held information under the RTI or IP Act should only be made as a last resort.¹ Therefore agencies² need to assess whether additional or enhanced administrative access

¹ As outlined in the preamble to the RTI Act.

² References to 'agencies' in this Guideline include Ministers, unless otherwise specified.



schemes can help to reduce the need for formal applications under the RTI or IP Act.

2.0 Administrative access to information

‘Administrative access’ refers to the release of information by means other than a formal access application under the RTI or IP Acts.

Administrative access schemes are generally reactive (responding to requests for information when received) but also include proactive schemes for disseminating information in advance of requests, such as in publication schemes and libraries. This Guideline focuses on reactive release following a specific request. Proactive release is discussed in more detail in the Guideline *Proactive disclosure and publication schemes*.

2.1 What are the advantages of administrative access?

Administrative access:

- puts information into the community faster and at lower cost
- reduces agency time and resources spent processing individual information requests; and
- demonstrates a commitment to openness, accountability and transparency, which in turn may increase confidence in government.

2.2 Administrative access schemes

Administrative release is a discretionary process but the framework for release is based on the same philosophy underpinning the RTI and IP Acts. Administrative access schemes are often designed to give individuals access to their own personal information³, except where legislation (such as the *Adoption Act 2009* (Qld)) prevents such release, or the information contains the personal information of another person, which would require the agency to consider the disclosure rules contained in the privacy principles.⁴

However, administrative release is not restricted to providing access to an individual’s personal information; other information may also be sought and released under administrative access schemes.

An important consideration when deciding whether information can be provided administratively is the sensitivity of the requested information. Some factors to take into account when determining the sensitivity of the information include the identity of the recipient and the security classification of the information (if applicable).

³ Examples of such schemes to access personal information are included at the end of this Guideline.

⁴ See the OIC Guidelines on ‘use and disclosure’ for an overview of Information Privacy Principles 10 and 11: <http://www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/use-and-disclosure>



Although sensitive information may be released in some cases under administrative access, agencies must take proper account of relevant factors in assessing whether it should be released. For example, although medical records may contain sensitive information, administrative release to the person who is the subject of the records will be appropriate in most cases. The Information Sheet [Accessing my medical records](#) contains more information.

Where it is decided that information cannot be released administratively, the person requesting it should be advised that they can apply for access under the RTI or IP Acts.

2.3 Differences between administrative access schemes and legislative access schemes

The RTI and IP Acts establish a formal process for agencies to follow when deciding whether to grant access to information. When processing RTI and IP access applications, agencies are required to consider factors such as:

- whether there is any exempt information contained in the document
- public interest factors favouring disclosure and/or non-disclosure of the information; and
- whether consultation with third parties is required.

These Acts also provide specific processes in relation to matters such as:

- review rights for applicants and third parties
- timeframes
- delegation of power to deal with applications; and
- protection against legal action for officers acting in good faith.

2.4 Access under other specific legislation

In addition to providing access under an administrative arrangement, some agencies provide access to information under specific legislation. For example, access is available, either free or for a charge, to information contained in the:

- Register of Land Titles established under the *Land Act 1994* (Qld)
- Register of Births, Deaths and Marriages, established under the *Births, Deaths and Marriages Registration Act 2003* (Qld); and
- Water Allocations Register, established under the *Water Act 2000* (Qld).



2.5 *Administrative access other than under a scheme – ‘one off’ requests*

Agencies regularly provide information in response to requests from the public, other agencies and the media – for example, statistical data and reports from agencies’ research and policy areas. In many cases, this information will also be published online.

This routine release of information is consistent with the pro-disclosure principles in the RTI Act. However, agencies should ensure that, regardless of the nature of the request, information is provided in accordance with the appropriate agency policies which: take account of the content of the document; its security classification and factors supporting release or withholding of information; and that release of the information is approved by the relevant delegate within the agency. This applies particularly where documents have not previously been published or released.

2.6 *Frameworks for administrative release*

Many agencies already have an established framework, approved by the chief executive, for administratively releasing specific kinds of information that is commonly requested. The framework may address release of broad classes of documents, and may delegate authority to approve release of others. The framework should include processes and protocols that give consideration to information security including the privacy principles within the IP Act.

This approach will maximise information flow, but also protect information the release of which could cause harm. The aim of an administrative release framework is not to restrict disclosure of information, but to ensure third party interests are not compromised.

Having a framework in place for administrative release of information which covers both formalised access schemes and other, more general, releases of information can significantly increase the effectiveness of information access by:

- assisting agency staff to understand their roles and responsibilities in relation to the proactive release of information
- creating confidence in agency staff to release information
- building privacy considerations into the release of information so that personal information is protected as a matter of course when information is released
- ensure that the website pathways to access are clear and easy to follow, and the administrative access arrangements are well promoted and highly visible
- increasing agency responsiveness to requests for information; and
- ensuring the public understand how administrative access works in the agency.



The framework should:

- emphasise that, where possible, information should be released administratively and formal applications under the RTI and IP legislation should only be required as a last resort
- ensure staff understand who is authorised to release information and under what circumstances
- explain that, under the RTI Act, the agency would not be required to release certain information and there are factors favouring disclosure and non-disclosure of information which will affect whether information should be released administratively
- ensure that mechanisms are in place to prevent third party interests from being inappropriately compromised
- comply with the privacy principles under the IP Act
- ensure access pathways are clear and easy to find and follow; and
- be approved by the chief executive.

2.7 *When is administrative access appropriate?*

Administrative access is appropriate where any of the following apply:

- there is demand for access to the requested information
- there are no significant adverse effects as a result of disclosing the information, either generally or to particular applicants (this is discussed below); and
- the information involved is of a kind that would be released if it was requested under the RTI Act, either generally or to particular applicants.

As a general rule, the sorts of documents that may be suitable for administrative release include those:

- provided to the agency by the person seeking access to them (for example, correspondence sent to the agency from the requester)
- provided by the agency to the person seeking access to them (for example, previous correspondence sent by the agency to the requester)
- which are publicly available; and
- which are routinely made available by the agency.



2.8 *Benefits of an administrative access scheme*

Potential benefits of administrative access schemes include:

- reduced number of access applications made under the RTI Act and IP Act⁵
- quicker outcomes and greater satisfaction for users of the agency's services
- lower costs for members of the public and agencies (compared to the potential processing and access fees and charges under the RTI Act)
- demonstrating that agencies are operating in accordance with the spirit of openness and accountability in the RTI Act; and
- engagement with the community rather than automatic deferral to formal legal processes.

Individuals who are not provided with any or all of the information they have requested administratively may still apply under the RTI or IP Acts for access to that information.

Example

The Department of Education, Training and Employment has implemented an administrative access scheme to provide a means of access to documents held by schools, for example, student records. The framework describes the types of documents held by schools and indicates whether access to the documents may be given administratively. It also guides Principals through the process of handling requests by providing guidance on special matters that the Principal needs to take into account in deciding whether to give a person access to documents and offers details on how to make an application for access, including an Administrative Access Form.

2.9 *Potential risks of administrative access schemes*

A comprehensive administrative access scheme provides many benefits, as outlined above, but it also raises potential risks, such as:

- inadvertent disclosure of a third party's personal information in breach of the privacy principles
- disclosure of information which compromises other essential government or private interests (for example, prejudicing an investigation, waiving legal professional privilege, disclosing confidential or commercial information)
- breach of statutory provisions affecting the operation of government— some Acts prohibit the release of information except in certain limited circumstances

⁵ Dealing with more straightforward requests for information outside of the legislative framework frees up resources for more complex requests to be considered under the RTI or IP Act.



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- breach of contractual terms affecting the release of information; and
- breach of copyright and issues related to intellectual property.

The above may result in agencies, Ministers or the State being exposed to legal action, as well as distress to individuals, adverse media reports, or complaints against agencies. This is why it is important to have clear policies in place surrounding administrative access schemes.

2.10 *Requests for someone else's personal information*

If a person requests access to someone else's personal information, it may not be possible to release the information administratively as to do so may potentially breach the privacy principles. If you receive such a request, a good starting point is to consult with the agency's Privacy Contact Officer, particularly if employees have not been provided with a clear decision making framework for the administrative release of information. The Privacy Contact Officer can advise whether any proposed disclosure is in accordance with privacy principles and any other legislative confidentiality requirements. Agency staff should also be provided with privacy training to assist agencies in meeting their privacy obligations.⁶

2.11 *Publishing documents released under administrative access arrangements*

Agencies are not obliged to publish copies or details about information released under administrative access in their disclosure log. However, agencies are encouraged to consider publishing as much information as possible, where appropriate, in their disclosure log in the interests of openness and accountability. Please note, documents containing personal information about the requestor are not included in disclosure logs. Similarly certain types of information are required to be deleted from information included in a disclosure log.⁷

3.0 *Relationship with the RTI Act and IP Act*

Applying for, or obtaining access to, documents under an administrative access scheme does not prevent a person from applying for access under the RTI Act or the IP Act at a later stage. However, where a document is available through administrative access or another legislative scheme (even if there is a cost involved) agencies may be able to refuse access under section 53 of the RTI Act.⁸

⁶ OIC provides free online training for general awareness of information privacy obligations of agencies at oic.qld.gov.au.

⁷ Section 78B of the RTI Act.

⁸ The applicant would have review rights on the refusal of access under section 53. See the definition of reviewable decision in schedule 5 of the RTI Act.



3.1 Transferring applications

If an agency receives an application which is stated to be made under the RTI or IP Acts, but which covers documents to which the applicant would obtain full access under an administrative access scheme, the applicant should be advised of this fact. If the applicant agrees, the application can be withdrawn and access given through an administrative access scheme, rather than going through the formal RTI process.

If the requested document would not be disclosed in full under the administrative release scheme then the application should be dealt with under the RTI or IP Acts.

If the reverse happens, and an agency receives a request for administrative access to information which would more appropriately be handled through the formal process, the applicant should again be contacted and be advised to apply under the RTI or IP Acts.

4.0 Evidence of identity

Agencies will need to develop policies to verify the identity of individuals where access to documents containing the individual's own personal information is being sought. These measures may vary depending on the information being sought and the extent to which agencies have personal contact with applicants.

In developing policies agencies should consider what identification documents are acceptable, what certification is required, how identification documents will be received by the agency (e.g. via post, fax or email) and how to ensure compliance with the privacy principles relating to the collection of personal information.

5.0 Review rights

In most cases, there will be no review rights if an agency refuses access under administrative schemes, other than through the agency's complaints handling systems. If a person is dissatisfied with the agency's response to their administrative request for information, the agency should advise the person of their right to apply for access to the information under the RTI Act or IP Act.

6.0 Promoting administrative access schemes

Promoting administrative access schemes can improve customer service, reduce formal RTI and IP applications and encourage open, transparent and accountable government. OIC regularly audits agency websites and finds that agencies should improve the visibility of administrative access schemes on their website to facilitate access.



Strategies for promoting administrative access schemes include:

- active leadership within the agency to foster an open culture within the agency which promotes responsible administrative release of information
- providing clear advice on what information is available for administrative release and the process for requesting information through the administrative scheme
- ensuring that a member of the public can logically navigate to where information about administrative access schemes is located on the agency's website
- providing contact details for enquiries about administrative access schemes
- ensuring that staff have clearly delegated authority and are aware of their authority to release information at the local level, and are encouraged in making robust use of their discretion to release information administratively; and
- ensuring that call centre and frontline staff are well informed about the agency's administrative access schemes and are able to assist the public in requesting access.

7.0 Maintaining administrative access schemes

The operation of administrative access schemes and any opportunities for new schemes should be reviewed on a regular basis.

Strategies for maintaining administrative access schemes include:

- active leadership in the proactive release of information from agency management, for example, the agency's executive or executive level committees responsible for information management
- reviewing the agency's business classification scheme to ascertain any changes to the functions and activities of the agency
- reviewing agency registers such as the information asset register to identify and classify the security level of key information holdings with an aim of releasing administratively all information holdings classified as public, unless there is a good reason not to
- using outcomes from community engagement strategies to understand stakeholder's information needs
- liaising with frontline and call centre staff to identify frequent information requests; and
- analysing applications made under the RTI and IP Acts to identify common information requests suitable for administrative release.



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8.0 Existing administrative access schemes

The following lists some administrative access schemes currently operating in agencies. They apply across a wide range of agencies and cover a diverse range of documents. While the schemes differ in their detail, they consistently provide a vast amount of information outside of legislative access schemes.

Examples of administrative access schemes

Hospital and Health Services – requests for access to an individual's own health record.

Legal Aid Queensland (LAQ) – requests for access to an individual's own legal files if LAQ has acted as their solicitor.

Department of Education Training and Employment – requests from students and parents for access student records held by schools.

Department of Housing and Public Works – requests from applicants, former applicants, tenants and ex-tenants of the department for access to specified parts of their tenancy file.

Queensland Police Service – requests for access to court briefs, criminal history information, crime reports and traffic incident reports.

The Public Trustee – requests for information relating to Enduring Powers of Attorney, free Wills, investment, executor and financial administration services.

Please contact the relevant agency if you have queries about their administrative access schemes.

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 guide 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 30 June 2009 and Last Updated 5 June 2017

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