



Applying the legislation

GUIDELINE *Right to Information Act 2009*

Searching for documents

This guideline explains how agencies¹ can search for documents in response to valid access applications under the *Right to Information Act 2009 (RTI Act)* and the *Information Privacy Act 2009 (Qld) (IP Act)*. It also outlines how to keep records of those searches, which will be important if the agency's decision is reviewed.

Recommended approach

When an agency receives a valid access application the decision maker must make inquiries with the relevant business units about the existence of documents within the scope of the application.² There are various measures an agency can take to ensure that reasonable and thorough searches for documents are conducted and properly recorded.

Keeping accurate records

Written records of all searches should be kept on file to show that all reasonable steps were taken to locate the documents. This guideline's appendices contain templates to assist decision makers with search process record keeping:

- search record/documents retrieval request (Appendix one)
- document retrieval request form (Appendix two)

Charging for time spent searching

Processing charges associated with applications made under the RTI Act can include the time taken to search and retrieve relevant documents.³

Informing the applicant

A decision notice should contain detailed information about the searches. Providing details of searches, for example the names of business units, databases or email accounts searched and if necessary a short explanation of their relevance to the scope of the access application, helps applicants to fully understand the extent of searches undertaken and, if relevant, the reasons why any documents cannot be located.⁴

¹ In this guideline, references to an agency include a Minister, unless otherwise specified. If the application is to a Minister, the threshold question would be whether dealing with the application would interfere substantially and unreasonably with the performance by the Minister of their functions (see section 41(1)(b) of the RTI Act).

² OIC's guideline: [What is the right of access in the RTI Act](#) may assist officers who are unfamiliar with the requirements of the RTI Act and IP Act.

³ As set out in section 56 of the RTI Act. Also see OIC's guideline: [Fees and charges](#).

⁴ *Re Betfair Pty Ltd and Department of the Attorney General* [2007] WAICmr 7.



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Specific searches

Searches of backup systems

Searches of a backup system are only mandatory in the circumstances set out in section 52(2) of the RTI Act⁵. In all other cases, they are not required unless the agency considers the search appropriate⁶.

Electronic devices/email accounts

Where an agency has a 'bring your own device' policy, allowing agency officers to use their own devices for agency business, it will be particularly important to ensure those devices are captured in any search requests.

Where agency policies specifically allow the use of private email accounts for agency business, for example where officers are travelling or working from home, decision makers may need to consider accounting for this in their search processes. For more information see [Online and One Your Phone](#).

Off-site storage

Documents stored off-site remain documents of an agency and must be retrieved if they are in scope of an application.

State Archives

If an in-scope document has been stored at Queensland State Archives it must be retrieved and processed, unless it is no longer in the control of the agency, for example if it has passed into the open access period under the *Public Records Act 2002* (Qld) (**PR Act**).

When are searches not required?

Searches for documents will not be required in some circumstances. For example, searches are not necessary:

- when it is appropriate to neither confirm nor deny the existence of documents under section 55 of the RTI Act—for more information see [Neither Confirm nor Deny](#); or
- where an agency refuses to deal with an application under section 40 of the RTI Act—for more information see [Refusal to Deal-all documents exempt](#).

⁵ Section 52(2) states that searches are only required where the document in question is a prescribed document as defined in section 52(4) of the RTI Act.

⁶ Section 29 of the RTI Act.



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Retention and disposal of public records

The PR Act sets out legislative requirements for the creation, retention and disposal of public records.⁷ Where an agency cannot locate documents sought in an access application, the decision maker should determine whether the documents have been destroyed under an approved schedule. If the records have been destroyed under an approved schedule, this needs to be set out in the reasons for decision.

Where documents cannot be located

Section 47(3)(e) of the RTI Act provides that an agency can refuse access to a document that is nonexistent or unlocatable as mentioned in section 52. For more information see [Documents nonexistent or unlocatable](#).

For additional information and assistance please refer to OIC's guidelines, [Sufficiency of Search on external review](#) 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.

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

⁷ The Queensland State Archivist issues Information Standards, guidelines, Public Records Briefs, and retention and disposal schedules relating to management and disposal of public records. The current versions of Information Standards can be accessed through the Queensland Government Chief Information Office's website www.ggcio.qld.gov.au. The other listed documents can be accessed on Queensland State Archives' website www.archives.qld.gov.au.

Memorandum	
To:	[Manager], [name of business unit]
From:	[Name of officer], [RTI Unit]
Date:	
Agency Ref:	
Subject:	Application for access to documents under the [<i>Right to Information Act 2009 (Qld)</i>]/ [<i>Information Privacy Act 2009 (Qld)</i>]

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1. On [date application received] [*name of agency*] received an application seeking access to documents under the [*Right to Information Act 2009 (Qld)*]/[*Information Privacy Act 2009 (Qld)*]. The scope of the applicant's request is set out in the Search Action Form (**attached**).
 2. The object of the RTI Act is to give a right of access to information in the government's possession or under the government's control, unless, on balance, it is contrary to the public interest to give the access. Please read the attached guideline – "*What is the right of access in the RTI Act?*" for more information.
 3. When an application for access to documents is received, an agency has a statutory obligation to locate all documents in its possession or control which fall within the terms of the application. When identifying documents that relate to an application, an applicant's reasons and/or motivations for seeking access to documents are **not** relevant considerations.
 4. In accordance with the attached Search Action Form, please conduct searches for the requested documents and provide the information detailed below.
 5. Please provide a response to this request by [due date].
 6. If you have any queries, please contact [name of unit/officer] on [phone number].

Search Action Form
RIGHT TO INFORMATION ACT/INFORMATION PRIVACY ACT

RTI/IP reference number	<i>Enter number</i>
To	<i>Enter business area contact</i>
RTI Officer	<i>Enter decision maker name and contact details</i>
Response due by	<i>Enter date response is required to be return to the RTI Officer</i>

APPLICATION SCOPE:

Enter application details (including relevant date ranges)

ACTION REQUIRED:

Please search for documents and provide the following to the RTI Officer by {date}:

- 1. all documents in full that were located and which are within the terms of the application above**
- 2. completed record of searches table**
- 3. signed search certifications**

Please note that a document includes:

- (a) *any paper or other material on which there is writing; and*
- (b) *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*
- (c) *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).*

Ensure thorough searches are conducted for documents, for example, on the electronic records system, emails, memos, officer's work diaries, filing cabinets, staff bookshelves, storage boxes, draft documents, video and audio tapes, photographs, diagrams and handwritten notes/files.

If you believe other areas of the agency hold relevant documents please advise the RTI Officer immediately on the above contact details.

PLEASE TICK ALL RELEVANT BOXES BELOW

No documents located in response to application

Documents sent electronically

Original documents attached (*documents will be returned when application process is finalised*)

Copies of documents attached

Documents destroyed*

Documents do not exist*

Documents exist but cannot be located*

* Identify the relevant reasons in the record of searches.

Search record

Please note, if further space is required, please refer to Appendix 2: record of searches table.

Date	Time taken	Location searched	Description of searches	Number of documents located	Comments/reasons why not located
	1.5 hrs	Email system	Key word search of email: John Smith, Assistant Director, Nobby's Farm	120 pages (see attached)	

DO YOU HAVE ANY INFORMATION ABOUT THE RELEVANT DOCUMENTS THAT MAY ASSIST THE RTI OFFICER IN MAKING THEIR DECISION?

*The RTI decision maker will consider the information in the documents under the provisions of the RTI Act to determine what information will be released to the applicant. **All documents must be provided in full** for their consideration; however please identify any concerns or reasons why you think information may be contrary to the public interest to release or contain exempt information (for example, legal professional privilege).*

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Certification

I certify that:

- I have personally conducted **OR** I have requested _____⁸ to conduct searches in relation to the access application, as detailed in the attached table
- I have searched **OR** instructed searches be made of all areas where I consider it reasonable to expect that documents relevant to the access application may be located
- All relevant documents that are located within my area of responsibility have been located and have been provided to the RTI/IP officer dealing with the access application
- Where documents have not been located, I have explained why the documents do not exist or cannot be located.

Authorising officer

Officer undertaking searches

Name: _____

Name: _____

Position: _____

Position: _____

Unit/Branch: _____

Unit/Branch: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Phone number: _____

Phone number: _____

Email address: _____

Email address: _____

⁸ Insert the full name and position of the officer who physically undertook the searches. Please note this officer must also complete certification of his/her searches.

All staff involved in the searching of documents are to accurately record relevant details and time spent in completing the task. This information will be used by the decision maker in making an assessment of any charges. It may also be relied upon during any review relating to the application (for example, charges being payable or the adequacy of the agency's searches if documents are non-existent or unlocatable).

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