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## Information Sheet

*Right to Information Act 2009*

### How to apply for financial hardship status – a guide for non-profit organisations

This Information Sheet explains how non-profit organisations can apply for financial hardship status under the *Right to Information Act 2009 (Qld)* (RTI Act).

#### What is financial hardship status?

To ensure non-profit organisations with limited financial resources can apply for documents, the RTI Act allows those organisations to apply to have the processing and access charges waived for access applications made under the RTI Act.<sup>1</sup>

#### When to make an application for financial hardship status?

An application for financial hardship status should be made before the non-profit organisation makes an access application under the RTI Act.

#### What are the requirements?

Financial hardship status is available to a non-profit organisation that can demonstrate it is:

- a non-profit organisation; and
- in financial hardship.

The Information Commissioner has a wide discretion about the evidence which can be considered when deciding whether an organisation is a non-profit and whether it is in financial hardship.

#### How can you show you are a non-profit organisation?

A 'non-profit organisation' is '*an organisation that is not carried on for profit or gain of its individual members*<sup>2</sup>. Non-profit organisations applying for financial hardship status must provide documentary evidence that shows:

- they are an organisation; and
- that they operate as a non-profit.

An organisation is more than a group of people who decide to do something together. There must be evidence of structure and planning, for example a constitution, constituent documents, or charter, or a certificate of registration or incorporation.

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<sup>1</sup> Section 67 of the RTI Act.

<sup>2</sup> Schedule 5 of the RTI Act provides the definition of 'non-profit organisation'.



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The organisation's non-profit status can be reflected in documents such as a copy of the organisation's constitution or rules of incorporation. In past decisions, the Information Commissioner has referred to an organisation's:

- objectives, as set out in its Constitution
- objectives, as published on its authorised website
- principal activity during the financial year as outlined in its Financial Report; and
- distribution of funds and assets as set out in its Constitution.

### **How can you show your organisation is in financial hardship?**

Evidence that demonstrates the organisation's financial position can include:

- annual audited accounts certified
- statement of Assets and Liabilities; and/or
- a tax-exempt certificate.

In making a determination, the Information Commissioner may consider the nature and size of the funding base and any liquid funds. In assessing the nature and size of an organisation's funding base, the Information Commissioner has previously considered:

- the organisation's various sources of funding, eg government grants, private donations, and fundraising activities;
- the discretionary nature of the organisation's funding base; and
- the organisation's current cash position.

In considering the financial position of a non-profit organisation, the Information Commissioner has used the Current Ratio, Quick Ratio, and Working Capital financial analysis tools.

### **How to apply**

A non-profit organisation may apply to the Information Commissioner for financial hardship status by making a written application<sup>3</sup> in one of the following ways:

**By mail:** PO Box 10143, Adelaide Street, Brisbane Qld 4000

**By email:** [administration@oic.qld.gov.au](mailto:administration@oic.qld.gov.au)

**In person:** Level 7, 133 Mary Street, Brisbane Qld.

### **Decision**

There is no set timeframe for the Information Commissioner to make a decision.

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<sup>3</sup> There is no specific application form that is required to be completed for making an application for financial hardship status.



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After the Information Commissioner has considered all the evidence provided, a prescribed written notice will be issued setting out the decision.

A decision that a non-profit organisation has financial hardship status has effect for one year from the date of the decision. During this time, the organisation must notify the Information Commissioner of any substantial improvement in the organisation's financial circumstances as soon as practicable.<sup>4</sup>

### **Right of review**

If the organisation is not satisfied with a decision refusing to grant financial hardship status, the organisation may appeal the decision to the Queensland Civil and Administrative Tribunal.<sup>5</sup>

For additional information and assistance please refer to the OIC's Guidelines available on the OIC's website at [www.oic.qld.gov.au](http://www.oic.qld.gov.au). You can also contact the Enquiries Service on 07 3234 7373 or by emailing [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*

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<sup>4</sup> If there is a substantial improvement in the organisation's financial circumstances, the decision that a non-profit organisation has financial hardship status may be revoked by written notice.

<sup>5</sup> For information about the timeframes, rules, and process of appealing the decision visit QCAT's website at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au).