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## Information Sheet

INFORMATION SHEET - *Right to Information Act 2009*

### Accessing documents to pursue a legal remedy

Under the *Right to Information Act 2009*<sup>1</sup> (Qld) (**RTI Act**), you have the right to apply for access to documents held by Queensland government agencies. Access to some kinds of information may be refused, however there can be exceptions in certain circumstances.

#### Applying for documents for a legal remedy

When you apply to access documents under the RTI Act you do not have to explain why you are applying. However, if you are seeking the documents to help you begin a court action or pursue a legal remedy, or to find out if you can pursue a legal remedy, explaining this may be beneficial to you.

#### Examples

- Seeking compensation for injuries caused by a dog attack
- Seeking compensation for property damage caused by a fire
- Seeking compensation for damage arising out of a motor vehicle accident
- Taking action to recover a motor vehicle where the debt has gone unpaid

#### Public interest factors - administration of justice

The RTI Act contains lists of public interest factors, both for and against disclosure. When an agency receives an application, the decision maker has to balance all the relevant factors for and against disclosure to decide if releasing the information would be contrary to the public interest.

One of the factors for disclosure is that releasing the information would contribute to the administration of justice. Administration of justice can include pursuit of a legal remedy or starting a court action. [What is the Public Interest](#) will give you more information about the public interest test.

#### Will I get access to the documents?

Why you want access to the documents is only one of the factors the agency will take into consideration. The agency also has to consider factors against disclosure, such as those relating to privacy and the personal information of other individuals. Whether you get access to the documents or not is going to depend on the extent to which the factors against disclosure outweigh the factors favouring disclosure.

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<sup>1</sup> There is no application fee if all documents contain your personal information.



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If the public interest in you being able to pursue a legal remedy outweighs the third party's privacy interests, the information may be released.

### Examples

In EF9TO8<sup>2</sup>, the applicant applied for the address of a garaged car in order to pursue the legal remedy of enforcing their rights under a loan contract, which would not be possible without the address. The current owner of the car objected to the disclosure of their personal details to the applicant and sought review of the decision to release their information.

The Assistant Information Commissioner found the factors favouring disclosure outweighed those favouring nondisclosure, in part because the garaging address was of minimal sensitivity and because, while there would potentially be negative impacts on the current owner if the applicant exercised their rights under the contract, it had been open to them to discover the encumbrance on the vehicle before purchase.

However, in Jose<sup>3</sup>, the applicant contended that the information they sought was necessary for them to pursue a claim with the Anti-discrimination Commission. Given that the applicant had already lodged their complaint with the Anti-discrimination Commission and the matter was underway, the Right to Information Commissioner found that the information was not necessary to pursue a legal remedy.

### What do I need to provide?

In order to properly take your reasons for applying into account when making its decision, the agency will need more than just your word that you intend to take legal action against someone. You will need to give the agency information, and potentially evidence, about the legal remedy you want to pursue. You will also need to tell them about the loss, damage, or wrong you have suffered and why there is no other option for you to get access to this information.

You may also need to discuss the matter in more detail with the agency when you make your application.

### What if the agency refuses me access to the information?

If the agency refuses you access to some or all of the information you've requested, you will be given a decision notice which sets out their reasons. It will outline which public interest factors the decision maker considered and the weight they were given.

You should consider this decision notice carefully before deciding whether you should exercise your rights of review. If you decide to seek a review, you must do

<sup>2</sup> [EF9TO8 and Department of Transport and Main Roads \[2016\] QICmr 19 \(3 June 2016\)](#)

<sup>3</sup> [Jose and Queensland Police Service \[2014\] QICmr 7 \(7 March 2014\)](#)



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so within 20 business days of the date on the decision notice. For more information, refer to [Explaining your Review Rights](#).

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](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 [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au).

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