



Information Sheet

INFORMATION SHEET - *Right to Information Act 2009 and Information Privacy Act 2009*

Can I apply for documents to use in court?

This information sheet is intended to help people who are involved in a court matter and want to apply under the *Right to Information Act 2009*¹ (RTI Act) for documents held by a Queensland government agency. It is important to be aware that the RTI process is separate from any court-specific access process and the timing of an RTI application cannot be sped up to meet court dates.

Documents available through the courts

If you are involved in a court process you will generally be able to access relevant information from third parties by asking the court for 'discovery' or asking the court to issue a subpoena. The Court Rules will set out when to use what method.

If a Queensland government agency holds information you need for your court matter, you can use the court process to access it or you can apply for the agency's documents under the RTI Act.

Can I apply under RTI *and* use the court process?

Yes, you can. The RTI Act gives you the right to apply to an agency for access to documents, even if other access options are available to you. You could, for example, issue a subpoena and make an RTI application at the same time, or make an RTI application and then issue a subpoena.

However, both the court processes and the RTI Act are subject to exceptions and exclusions. This means you may not receive all the information you seek and that the different options may give different results.

Will an agency ever refuse my RTI application?

There are circumstances in which an agency can refuse an RTI application; the applicant being involved in a court process that *may* allow them to acquire information is not one of them.

Can I ask the agency to make a quick RTI decision?

The RTI Act sets the time an agency has to make a decision. While you can ask the agency to make a faster decision, in most cases this will not be possible. Processing

¹ Access is also available under Chapter 3 of the *Information Privacy Act 2009* to documents that contain your personal information. Refer to [How do I Apply for Government Documents](#) for more information.



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an RTI application requires specific requirements to be met, and most agencies have many applications active at one time.

If you think you may need to apply through the RTI process as part of your court matter you should make your application as soon as possible.

What if the documents I want are with the agency's lawyers?

Agencies will sometimes instruct lawyers outside the agency to act on their behalf. As part of this process the agency will usually give documents to the outside lawyers, and the outside lawyers will produce documents, some of which will belong to the agency.

If these lawyers hold documents relevant to your application that belong to the agency, they will have to be considered as part of your application. Again, this does not mean you will be given access to them. The agency decision maker will consider the documents and make a decision based on the provisions of the RTI Act.²

Will there be any documents the agency will not consider?

Not every document held by the outside lawyer will belong to the agency. There are specific rules that state which are the agency's and which are the lawyer's. Only documents which belong to the agency will be part of your application.

What if I don't like what the agency decides?

If an agency makes a decision you do not agree with or refuses to deal with your application because you are involved in a court process you have the right to seek a review of the decision. You can seek an internal review from the agency itself or choose to bring it directly to the OIC on external review. Requests for an internal or external review must be made within 20 business days from the date of the decision.

For additional information please refer to [How to apply for government documents](#) and [Explaining Your Review Rights](#) or contact the Enquiries Service on 07 3234 7373 or 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

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

² See [What is the Public Interest](#) and [What is Exempt Information](#) for more information.