



Information Sheet

INFORMATION SHEET – *Information Privacy Act 2009*

How to amend personal information under the IP Act

A guide for applicants

Overview

If you believe that your personal information in a document held by a Queensland government agency¹ is inaccurate, incomplete, out of date or misleading, you can apply to have this information amended.

This Office of the Information Commissioner's (**OIC**) information sheet provides information to help you make an amendment application under the *Information Privacy Act 2009* (Qld) (**IP Act**) and explains the amendment process.

Who can apply for amendment?

- An individual who has had access to the document which contains their personal information²
- An agent acting on behalf of an individual who has had access to the document which contains their personal information
- The parent of a child whose personal information is contained in the document
- An eligible family member who is acting as an agent of a deceased person
- Another person who is authorised to act as an agent of a deceased person and who the agency or Minister believes has an appropriate interest in the amendment of the deceased person's personal information.

Things to consider before you apply

Before making an application for amendment of your personal information, you must know the actual words or numbers in a document which you believe are inaccurate, incomplete, out of date or misleading.

If you have not seen the document (perhaps you have had verbal advice as to its existence), it would be advisable to contact the relevant agency and ask them to provide you with a copy of the document administratively. If the agency refuses to give you the information, you may lodge an application under the IP Act.³

¹ In this information sheet references to an 'agency' include Ministers, unless otherwise specified.

² Section 44 of the IP Act provides that access does not need to have been given under the IP Act. It is sufficient for the individual to have gained access to the document by other means.

³ See the *How do I apply for government documents?* for further information or alternatively the application form can be downloaded at www.rti.qld.gov.au.



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An agency may be prepared to correct information or add a notation to a document without the need for you to make a formal application. Before making a formal application to an agency for an amendment of personal information, consider asking the agency to correct the information. If you do this, you will need to be precise about the words or numbers you consider incorrect and have the words of your suggested notation ready.

Example

You have obtained a document from an agency which contains your date of birth. Your date of birth recorded on this document is incorrect.

Initially you could just point out the error to the agency and ask if they can change the record to reflect your correct date of birth. The agency may be prepared to do this without you having to make a formal application under the IP Act. The agency may change the record without requiring any further information; however they may ask to sight your drivers licence or birth certificate to verify your correct date of birth.

What is personal information?

Under the IP Act you can only ask for your own personal information to be amended.

Personal information means information or an opinion about an individual whose identity is apparent or can be reasonably ascertained. The information does not have to be true in order to be personal information. Personal information is very broad and includes things such as your name, address, a record of something you have said, a photograph of you and information which includes another person's opinion about you.

Not all personal information can be changed. For example, if the words you want changed are a doctor's opinion or an investigator's conclusion after the weighing up of evidence, these words are unlikely to be able to be altered. They are the historical record of what that person thought about matters concerning you. In these circumstances you can ask for a notation to be added to the file. More information is provided about this under the heading [Limitations on amendment](#).

Application form

The IP Act states that you should make your amendment application on an approved application form.

- You can download and print a copy of the approved *Information Privacy Personal Information Amendment Application* form from the internet at www.rti.qld.gov.au; **OR**
- You can ask the relevant agency to send you a paper copy of the application form.



Once you have completed the application form, you can either post, fax or email it to the relevant agency. The agency will be able to provide you with contact details for where the completed form should be sent.

How to fill out the application form

The application form **must** provide an address to which the agency can send written correspondence. The address can either be a postal address or an email address.

The application form **must** also contain enough details about the documents you wish to seek to have amended. By being as clear as possible about the information you are seeking to amend, you will be helping the agency to quickly locate the documents and consider the requested amendment.

On the application form you should state the way you believe the information is inaccurate, incomplete, out of date, or misleading and why you believe this is so.

Inaccurate or misleading

If you believe that your personal information is inaccurate or misleading, you must state the amendments you believe will make the information accurate and not misleading.⁴

Incomplete or out of date

If you believe that your personal information is incomplete or out of date, you must state the amendments you believe will make the information complete and up to date.⁵

Identification

Before an agency can consider your amendment application, they must be satisfied that you are who you say you are. This process helps the agency protect your personal information from being amended by persons other than yourself.

For all amendment applications under the IP Act, you **must** provide a certified copy of your identification with the application form or within 10 business days after submitting your application.⁶

If someone (including a legal representative) is acting on your behalf or as your agent, they must also provide evidence that they have authority to act on your behalf and a certified copy of their identification.⁷

⁴ Section 44(4)(f) of the IP Act.

⁵ Section 44(4)(g) of the IP Act.

⁶ Section 44(5)(a) of the IP Act.



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Your identification (and that of your agent, if applicable) must be certified by a justice of the peace, commissioner of declarations or a lawyer.⁸

Please note that you cannot submit your certified identification electronically (for example by fax, email or online). You must post the copy of your certified identification to the agency.

Charges

There is no application fee or processing charges for amendment applications made under the IP Act.

Contact from the agency

If your application does not comply with the requirements set out above then the agency will contact you within 15 business days of receiving your application.⁹ They must tell you why your application does not comply and what steps you should take to make it compliant.

If you are contacted, you must provide the information the agency has requested within the timeframe given by the agency. If you don't respond within that timeframe, the agency may consider that your application is noncompliant and may refuse to process it.

The agency must provide you with a written notice of the decision within 10 business days if they decide to refuse your application because it is noncompliant. You have the right to seek a review if the agency makes the decision not to process your application.

Limitations on amendment

Decisions by government agencies

Amendment provisions are not intended to be used in order to challenge or re-open decisions made by government employees or officials who have exercised their decision making power in a way which you believe has adversely affected your interests. Provided the relevant documents accurately record the decisions, it is unlikely that they will be amended.

Professional or expert opinions

Amendment provisions are not designed for you to have expert opinions you don't agree with deleted from the public record or altered to reflect your view, particularly when the opinion was actually held and entered in the official

⁷ Section 44(5)(b) of the IP Act.

⁸ Section 3 of the *Information Privacy Regulation 2009* (Qld).

⁹ Section 53 of the IP Act.



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records.¹⁰ Even if your opinion or that of others differs from that of the expert opinion, it does not make the statement of the expert incorrect if it is an accurate statement of the expert's opinion. If the agency is satisfied that the document is an out of date, inaccurate or incomplete statement of the expert's opinion, or is a misleading statement as to the expert's opinion, they can agree to alter the information or put a notation on the file.

Example

A record of a doctor's opinion about the applicant's medical condition at a particular date does not become out of date merely because of subsequent changes in the applicant's medical condition. Generally, the earlier record is still a correct statement of the doctor's opinion at the date it was made.

In this situation, the agency may consider a notation to reflect the changes in the applicant's medical condition which would bring the record up-to-date.

Will the document be amended?

The agency may decide to amend a document in response to an applicant's request for amendment. This can be done either by altering the information or adding a notation to the personal information. Before making an alteration or adding a notation, the agency must be satisfied that the information is inaccurate, incomplete, out of date or misleading. If a notation is added, it must state how the information is inaccurate, incomplete, out of date or misleading. If it is incomplete or out of date, the agency should set out the information required to complete the personal information or bring it up to date.

However, an agency may refuse to amend a document if:

- the agency is not satisfied that the information is inaccurate, incomplete, out of date or misleading
- the agency is not satisfied that the information sought to be amended is the personal information of the applicant
- the agency is not satisfied that the person acting as the agent is suitably authorised to make the amendment application; or
- the document does not form part of a record available for use in the day-to-day or ordinary performance of the agency's functions.¹¹

¹⁰ *Crewdson v Central Sydney AHS* [2002] NSWCA 345.

¹¹ Section 72 of the IP Act.



What if the agency refuses to amend the document?

Review rights

If the agency refuses to deal with your amendment application or refuses to amend the document, you have the right to seek an internal review within 20 business days of the date of the decision notice.

An internal review is conducted by another person within the agency. If you disagree with the outcome of the internal review, you may seek an external review by the OIC. Alternatively you may skip the internal review process and seek external review straight away.

Notation required to be added

If you make a formal amendment application and the agency refuses to amend the document, you can ask the agency in writing to add a notation to the document.¹² The notation must specify what personal information you consider is inaccurate, incomplete, out of date or misleading.

If you believe the information is incomplete or out of date, you must set out the information that you consider is necessary to complete the information or to bring it up to date. If you believe the information is inaccurate or misleading, you must set out the amendments you believe are necessary for the information to be accurate or not misleading.

The most practical approach is for you to tell the agency which words and/or numbers you take issue with and your preferred form of words for the notation.

The agency must make the notation (except as mentioned below). However, the agency is not required to use exactly the same wording that you have suggested. After adding the notation, the agency must provide you with a written notice advising you of the nature of the notation.

If the agency believes that you were not entitled to apply for the amendment (eg it is not your personal information) then the agency may refuse to add the notation and must provide you with a written notice of decision. You will then have the same review rights as outlined above within 20 business days of the date of the decision notice.

¹² Section 76 of the IP Act.



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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 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