



Information Sheet

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

Crime and Corruption Commission investigations - a guide for applicants

The *Right to information Act 2009* (**RTI Act**) allows people to access information held by government agencies.¹ This right of access is subject to some limitations which include the exempt information provisions in Schedule 3 of the RTI Act.

The RTI Act² makes certain information relating to a Crime and Corruption Commission (**CCC**) investigation exempt from release. This is called the CCC exemption.

What information does the CCC exemption apply to?

The CCC exemption applies to all information which was obtained, used or prepared by the CCC, or another agency, as part of an investigation relating to the CCC's prescribed functions, ie crime, intelligence and/or corruption³.

The words 'obtained, used or prepared' will cover most information relating to the investigation. If the CCC created it, acquired it, considered it or in any way put the information to use in the investigation, the CCC exemption will apply to it.

What do the CCC's functions cover⁴?

The CCC's **crime functions** relate to the investigation of major crime which has been referred to it. The CCC's **intelligence functions** relate to conducting intelligence activities to support its other functions and collecting and analysing intelligence data.

The CCC's **corruption functions** only relate to investigations into serious and systemic corruption. The CCC's corruption functions also specifically involve conducting or monitoring investigations into allegations of police misconduct.

What if the CCC asks the agency involved to carry out the investigation?

Sometimes when an agency reports a matter/complaint to the CCC, the CCC will refer the matter back to the agency to investigate under the authority of the CCC. Any information obtained, used, or prepared by the agency as part of the investigation will also be exempt under the CCC exemption.⁵

¹ Chapter 3 of the *Information Privacy Act 2009* also allows an individual to access their personal information. In this information sheet references to an 'agency' include Ministers, unless otherwise specified.

² Schedule 3, section 10(4)

³ RTI Act, Schedule 3, section 10(9)

⁴ The *Crime and Corruption Act 2001*, sections 25, 33 and 53.

⁵ *3RS8NM and Queensland Health [2017] QICmr (13 January 2017)*.



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Will I be able to access this information as part of my RTI application?

It is unlikely that you will be able to access the information. You will not be able to access it if the investigation is not finalised, and in most other cases the information will be exempt from release.

The exempt information provisions in the RTI Act set out the information Parliament has already decided it is contrary to the public interest to release. This includes information that falls into the CCC exemption.

The decision maker cannot take any reasons you may have for wanting access to the information into account. This is because the public interest factors cannot be considered in relation to information which is exempt. For more information refer to [What is Exempt Information](#) and [What is the Public Interest](#).

The Office of the Information Commissioner (**OIC**) has no power on external review to require the release of information that it has determined is exempt information.

Can I ever access this information?

There is an exception to the CCC exemption.⁶ It only applies once the investigation is finalised to information about the applicant. Whether information is about the applicant is a question of fact determined by the decision maker.⁷

This means if you were the subject of the complaint, you may be able to access some of information once the CCC investigation is finalised. However, if you made a complaint that resulted in a CCC investigation, or you were involved in the investigation, for example as a witness, the exception is highly unlikely to apply.⁸

Even if the exception applies, the agency decision maker is still required to consider any other relevant exempt information provisions and the public interest factors. This means you may be refused access to the information even if it is about you.

For additional information and assistance please refer to the OIC's access guidelines or the [annotated legislation](#), or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.

⁶ RTI Act Schedule 3, section 10(6). This is referred to as the exception to the CCC exempt information provision and it only applies once the investigation is finalised.

⁷ *Darlington v Office of The Information Commissioner & Queensland Police Service* [2015] QCATA 167

⁸ *Cronin and Crime and Corruption Commission* [2017] QICmr 13 6 April 2017, *G8KPL2 and Department of Health* (Unreported, Queensland Information Commissioner, 31 January 2011), *Darlington and Queensland Police Service* [2014] QICmr 14 (11 April 2014)



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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