

INFORMATION SHEET

EXTERNAL REVIEW FUNCTION



Office of the Information Commissioner
Queensland

December 2022

Process

The Office of the Information Commissioner (OIC) builds trust in government agencies in Queensland through greater transparency. OIC has a statutory role to assist the achievement of more open, accountable and transparent government through independently upholding and promoting information access and privacy rights.

Government information should, where possible, be available to the community through informal means, such as an agency's website, publication scheme or through administrative release. A formal application for government-held information should only be made as a last resort.

The Information Commissioner has responsibility for independently reviewing decisions of agencies and Ministers on access to and amendment of personal information under the *Right to Information Act 2009* (Qld) (RTI Act) and the *Information Privacy Act 2009* (Qld) (IP Act).

The Information Commissioner conducts merits reviews of decisions made under the RTI and IP Acts. This form of review involves a reconsideration of all aspects of the original decision including questions of law and questions of fact. The Information Commissioner is often described as 'standing in the shoes' of the original decision maker when conducting reviews. An external review decision replaces the decision of the agency.

Initially established under the repealed *Freedom of Information Act 1992* (Qld), OIC continues under the RTI Act and the IP Act.

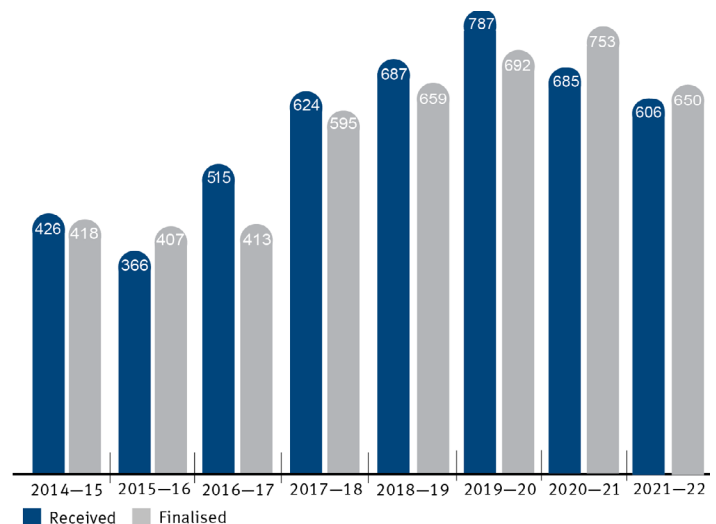
RTI Commissioner

The Right to Information Commissioner is appointed by the Governor-in-Council as a deputy to the Information Commissioner with responsibility to perform the functions of the Information Commissioner under the RTI and IP Act that have been delegated to that position.

This role particularly performs the external review functions of the Information Commissioner which include conducting review of agency decisions about whether information should be disclosed under the RTI and IP Acts, whether agencies have taken all reasonable steps to locate relevant documents, if applications can be accepted outside of the time allowed for making an external review application or whether agencies should be granted further time to process access applications and, also deciding applications from non-profit organisations for financial hardship status.

The RTI Commissioner promotes the 'push model' of right to information, including agency obligations for proactive and administrative release of information.

External Review applications received and finalised



An external review may involve some, or all, of the following stages (with procedural fairness afforded to all participants):

- Preliminary inquiries - establishing whether the Information Commissioner has jurisdiction to conduct the requested review.
- Early assessment and resolution - obtaining documents from the agency and other relevant background information from review participants, identifying opportunities for informal resolution and negotiating settlement of the review.

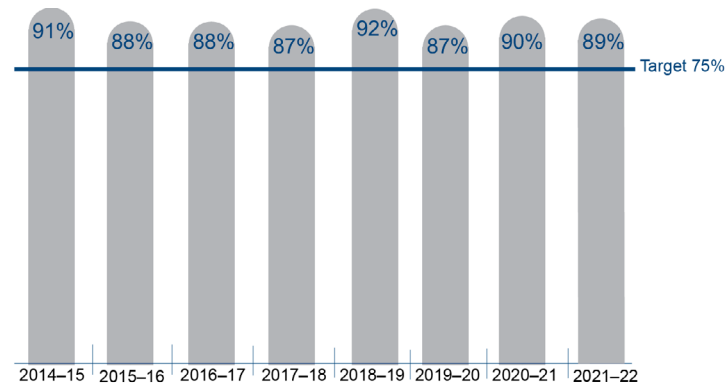
- Informal resolution and preliminary view - forming a preliminary view on the issues remaining in dispute, informing participants orally or in writing of that view and inviting submissions in return.
- Decision - making a written determination on the issues in the review. All decisions are published on our website.

Informal resolution

OIC attempts to resolve external review applications informally wherever possible. 89% of external reviews were resolved informally in 2021-22.

However, if informal resolution cannot be achieved, a decision is made that either affirms, varies or sets aside the agency/Minister's decision.

Percentage of reviews resolved informally



Appeal

If a person affected by a decision of the Information Commissioner disagrees with the decision, they may appeal to the Queensland Civil and Administrative Tribunal on a question of law under the RTI or IP Acts.

Highlights of 2021-22

- We finalised 650 external review applications and received 606 new applications.
- 89% of external review applications were resolved informally without a formal decision.
- 44% of applicants were satisfied overall with the conduct of the external review.
- 0.8% of reviews, that were more than 12 months old, were open at the end of the reporting period.

About the RTI Commissioner

Katie Shepherd and Anna Rickard

Katie and Anna jointly perform the role of Acting Right to Information Commissioner (RTI Commissioner), on a part time job share basis. Katie and Anna commenced acting in the role of RTI Commissioner in September 2021.

As Acting RTI Commissioner, Katie and Anna jointly lead the external review team to conduct independent merit reviews of access decisions under the *Right to Information Act* and *Information Privacy Act*, including making decisions under the delegated authority of the Information Commissioner. Katie and Anna form part of OIC's Executive Leadership Team.

Katie has worked at OIC since 2006, and as an Assistant Information Commissioner from 2010. Katie holds a Bachelor of Laws (Hons) and was admitted as a solicitor of the Supreme Court of Queensland in 2004. Prior to working at OIC, Katie worked in private practice and in the Supreme Court Registry.

Anna also began at OIC in 2006 and has, over the past decade, worked as an Assistant Information Commissioner and Principal Policy Officer. Anna holds Bachelors of Laws and Arts (Hons in psychology) and was admitted as a solicitor of the Supreme Court of Queensland in 2001. Prior to working at OIC, Anna worked in private practice and the community legal sector.

The process to appoint a permanent RTI Commissioner is currently being undertaken by the Department of Justice and Attorney-General.

Contact us

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Please note: The Office of the Information Commissioner (OIC) cannot comment on an external review application being considered by OIC or where the parties to the review may still seek review of the OIC decision. Reasons for external review decisions are published on the OIC website. OIC cannot disclose information relating to a review, including information claimed to be exempt or otherwise able to be withheld from disclosure. Similarly, OIC will not discuss specific privacy complaints with people who are not a party to the complaint. Information about how the RTI Act and the IP Act apply to various types of entities and documents can be found in Information and Resources on this website.