

INFORMATION SHEET

EXTERNAL REVIEW FUNCTION



Office of the Information Commissioner
Queensland

November 2020

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Initially established under the repealed *Freedom of Information Act 1992* (Qld), OIC continues under the RTI Act and the IP Act.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

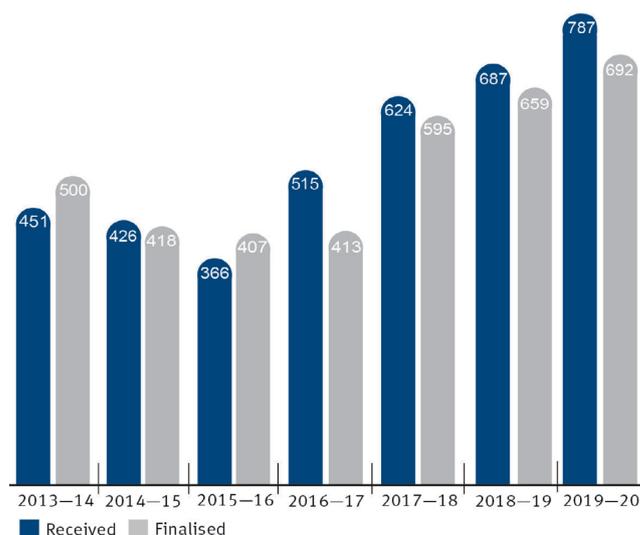
The Right to Information Commissioner is appointed by the Governor-in-Council as a deputy to the Information Commissioner with responsibility to perform the functions of the Information Commissioner under the RTI and IP Act that have been delegated to that position.

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.

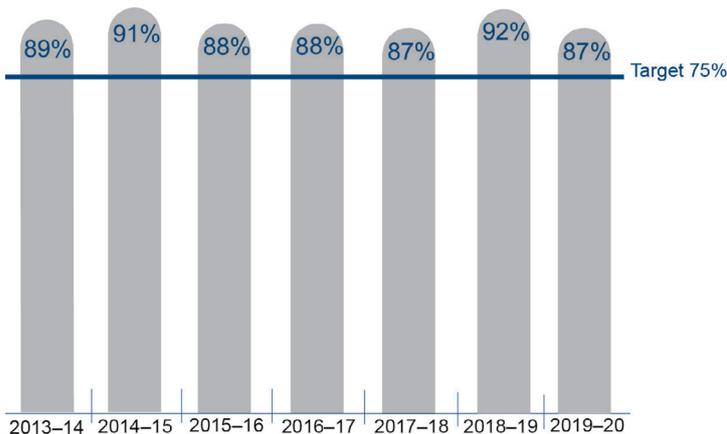
- Decision - making a written determination on the issues in the review. All decisions are published on our website.

Informal resolution

OIC attempts to resolve external review applications informally wherever possible. 87% of external reviews were resolved informally in the 2019–20 year.

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 2019–20

- We finalised 692 external review applications and received 787 new applications.
- 87% of external review applications were resolved informally without a formal decision.
- 67% of applicants were satisfied overall with the conduct of the external review.
- 0.3% of reviews, that were more than 12 months old, were open at the end of the reporting period.

About the RTI Commissioner

Louisa Lynch

Louisa Lynch was appointed as the RTI Commissioner on 6 July 2018. Louisa had been Acting RTI Commissioner between 21 August 2017 and 5 July 2018.

Prior to her appointment in August 2017, Louisa was Assistant Information Commissioner at OIC for over six years. She brings more than 15 years of significant public sector experience and knowledge of the local government sector to the role of RTI Commissioner.

Prior to joining OIC, Louisa was a senior lawyer in the Department of Local Government, Community Recovery and Resilience. She has also worked in legal professional roles in a number of government agencies including Queensland Transport, the Department of Local Government, Planning Sport and Recreation and the Department of Infrastructure and Planning.

Louisa holds a Bachelor of Laws and was admitted as a solicitor of the Supreme Court of Queensland in 1990.

As RTI Commissioner, Louisa actively promotes and champions the principles and practices of RTI and information privacy in the community and the government sector. In her role, Louisa leads the external review team to conduct independent merits reviews of access decisions under the RTI Act and IP Act, including making decisions under the delegated authority of the Information Commissioner. Louisa is also part of OIC’s Executive Management Team.

Louisa is appointed as RTI Commissioner until 5 July 2023.

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