



## Information Sheet

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

### What is exempt information – a guide for applicants

This Information Sheet explains what exempt information is and why an agency must consider it when deciding whether to give access to documents applied for under the *Right to Information Act 2009 (Qld) (RTI Act)*.<sup>1</sup> The main purpose of the RTI Act is to give a right of access to Queensland government information unless it is decided that, on balance, giving access would be contrary to the public interest.

Under the RTI Act there are many ways applications can be dealt with. There are situations when an agency may refuse to deal with an application, for example, if processing it would consume too many resources or if an applicant has previously applied for those documents. However agencies will make decisions about giving access to documents in two primary ways.

#### How do agencies make decisions about access?

The RTI Act contains *exempt information provisions* and *public interest factors*. Exempt information provisions relate to information that Parliament has already decided will always be contrary to the public interest to release.

If no exempt information provision applies, the agency will then look at the lists of public interest factors to decide whether releasing the information would be contrary to the public interest.

#### What type of information is exempt?

Exempt information generally consists of specific, identifiable classes of information.<sup>2</sup> It includes information that is subject to Cabinet confidentiality, legal professional privilege, and confidential information. It also includes information that is protected from release by other pieces of legislation, such as the *Child Protection Act 1999* and the *Witness Protection Act 2000*.

#### When do decision makers consider exempt information?

Exempt information is the first issue decision makers have to consider when looking at documents applied for under the RTI Act. They must identify any information in the documents that falls within any of the exempt information classes. If it does, it is exempt from release and they can refuse access to it.

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<sup>1</sup> Or Chapter 3 of the *Information Privacy Act 2009 (Qld)*.

<sup>2</sup> The list of exempt information categories are contained in Schedule 3 of the RTI Act.



**Office of the Information Commissioner**  
Queensland

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**What if I have a good reason for wanting access to the information?**

An applicant's reasons for wanting access to information are not relevant to whether or not information is exempt information. Parliament has already made the decision that exempt information should not be released. Decision makers cannot take an applicant's reasons for making the application into consideration.

If information is not exempt, and a decision maker moves on to considering the public interest factors, reasons for wanting access may be relevant. See [What is the Public Interest<sup>3</sup>](#) for more information.

**What if I believe the information is not exempt?**

If you believe that the exempt information provision has been incorrectly applied and you seek a review of the decision, you need to explain why you believe the decision maker has made a mistake. Reasons for wanting access, your belief the exempt information provision is unfair, the age of the documents or your involvement in legal proceedings are not relevant.

For additional information, please see the OIC's Information Sheets on the OIC website or you contact the Enquiries Service on 07 3234 7373 or [enquiries@oic.qld.gov.au](mailto: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](mailto:feedback@oic.qld.gov.au).

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

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<sup>3</sup> Available on the OIC website via: <https://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment/what-is-the-public-interest>.