



## 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> Under the RTI Act access must be given unless it is decided that disclosure would be contrary to the public interest.

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

The Act contains a number of categories of information Parliament has already decided are contrary to the public interest to release. If information fits into one of them, a decision maker can refuse access to it. They include information that is contrary to the best interests of a child to release and healthcare information that could harm the applicant if released, but the most common category used by decision makers is *exempt information*.

Information is exempt information if it falls within one of the exempt information provisions in schedule 3 of the RTI Act.

#### What if information doesn't fall into one of these categories?

Where information is not exempt or doesn't fall into one of the other specific categories, the decision maker must consider the public interest factors to decide if it is contrary to the public interest to release.

#### What type of information is exempt?

Exempt information generally consists of specific, identifiable classes of information. 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 will generally be one of the first issues decision makers consider when looking at documents applied for under the RTI Act. They must identify if any information in the documents falls within the exempt information classes. If so, it is exempt from release and the agency can refuse access to it.

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



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

The reason you applied is not something a decision maker can consider when deciding if information is exempt information. This is because Parliament has already made the decision that exempt information is contrary to the public interest to release. The decision maker can only consider the information in the document and the requirements of the exempt information provision. They cannot consider your reasons for applying.

#### Can my reasons for applying be taken into account in other circumstances?

If the information is not exempt, and the decision maker has to consider the public interest factors, the decision maker may be able to take your reasons for applying into account. It will depend on the circumstances. See [What is the Public Interest](#) for more information.

### What if access is refused?

You will receive a written notice of decision from the agency which will detail if access has been refused to any documents or information in response to your application. If access is refused to any requested information, then you will have review rights in relation to the decision.<sup>2</sup>

If you believe that an exempt information provision has been incorrectly applied you can provide further information about why you believe the information or document is not exempt information when you apply for review. Factors such as reasons for wanting access, the age of the documents or your involvement in legal proceedings are not relevant when determining if a document contains exempt information.

For additional information, please see the [Exempt information provisions](#)<sup>3</sup> and other resources on the OIC website or 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>2</sup> See the Information Sheet [‘Explaining your review rights’](#) for more information.

<sup>3</sup> These Guidelines are intended for decision makers processing applications under the RTI Act. However, the resources contain more detail to explain how the exempt information provisions are applied.