



Information Sheet

Right to Information Act 2009 and Information Privacy Act 2009

Public Interest Disclosures – a guide for applicants

Overview

This Information Sheet explains why you may have been refused access to 'Public Interest Disclosure' documents requested under the *Right to Information Act 2009* (Qld) (**RTI Act**) or the *Information Privacy Act 2009* (Qld) (**IP Act**).

Disclosures about wrongdoing can help to uncover corruption and other misuses of public resources. They are an important tool in ensuring that the public sector is accountable and uphold the highest standards of integrity.

What is a Public Interest Disclosure?

A Public Interest Disclosure (**PID**) is a disclosure or release of information, including help given by an individual, which is about suspected wrongdoing or danger in the public sector.

The *Public Interest Disclosure Act 2010* (Qld) (**PID Act**) provides protections for those who make a disclosure of information about suspected wrongdoing in the public sector and sets out requirements for how a disclosure is handled. The PID Act has replaced the *Whistleblowers Protection Act 1994* (Qld).

The Queensland Ombudsman is the oversight agency for the PID Act.¹

Can I apply for PID documents?

The RTI Act and the IP Act give people the right to apply to access documents held by Queensland government agencies. However, access to those documents may be refused if information in the documents is exempt or contrary to the public interest to release.

What is exempt information?

The RTI Act sets out certain kinds of information that Parliament considers contrary to the public interest to release. This is known as 'exempt information' and the agency does not have to consider whether it is contrary to the public interest to release it on a case by case basis.² The agency can refuse access to documents in full or in part if they contain exempt information.

PID documents are likely to contain exempt information.

¹ For more information about PIDs, please refer to the Queensland Ombudsman website: www.ombudsman.qld.gov.au.

² See the Information Sheet – [Overview of the application process: what to expect – a guide for applications](#) for more information the public interest balancing test.



Will I get access to PID information under the RTI Act or the IP Act?

No, generally not. Information is exempt if its disclosure is prohibited by section 65(1) of the PID Act.

That section of the PID Act requires that 'confidential information' is not disclosed to anyone.³ The object of section 65(1) of the PID Act is to preserve the confidentiality of information disclosed in the PID, including the identity of the person who made it and details about the suspected wrongdoing, as well as anyone referred to in the PID.

The RTI Act and the IP Act recognise that it is important to maintain the strict confidentiality requirements set out in the PID Act so that public sector workers and members of the public are appropriately protected and are not hesitant or unwilling to report suspected wrongdoing. For this reason, it is *extremely* unlikely that PID information will be released to you in response to an RTI Act or IP Act application.

In exceptional circumstances, the agency may decide to give access to a document even if it contains exempt information.

What if the information is about me?

There is an exception where information can be released if it is the applicant's personal information. However, this exception applies **only** when the information is solely your personal information. If it is intertwined or mixed with other people's personal information then the exception will not apply and the information will be considered as exempt information.

Do I have the right of review?

Yes. If the agency refuses access to any documents that you have requested, then you have the right to seek an internal and/or external review of that decision within 20 business days from the date of the decision.

For more information on your review rights please see the Guideline: [Explaining your review rights – a guide for applicants](#).⁴

Will I receive the PID information I am seeking on external review?

External review is a process which allows decisions made by agencies under the RTI Act and the IP Act to be independently reviewed by the Information Commissioner.

If you have applied to the Office of the Information Commissioner for an external review, you will have received a decision from an agency refusing you access to PID information.

³ Except in the listed circumstances in section 65(3) of the PID Act.

⁴ Available at: <http://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment/explaining-your-review-rights-a-guide-for-applicants>.



Office of the Information Commissioner
Queensland

When considering your application for external review of this decision, the Information Commissioner must have regard to the relevant laws. As noted above, the disclosure of confidential information is prohibited by the PID Act and is therefore exempt information under the RTI Act and the IP Act.

The Information Commissioner does not have the power to direct an agency to give access to a document containing exempt information.⁵

Therefore, if an agency has denied you access to the PID information you are seeking, and the Information Commissioner forms the view that it is exempt information, you will not receive that information on external review.

For additional information and assistance please refer the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or email 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.

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⁵ See section 105(2) of the RTI Act and section 188(2) of the IP Act.