

Information Sheet

Right to Information Act 2009

Applying for a deceased person's information

Under the *Right to Information Act 2009* (RTI Act (Qld)), you have the right to apply for documents held by Queensland government agencies. This includes documents about people who have died.

Making an application does not guarantee access. Agencies have to assess the documents you applied for and will refuse access to information which is exempt or contrary to the public interest to release.

Information is *exempt* if it is listed in schedule 3 of the RTI Act. If it is exempt, you will not be able to access it regardless of your relationship to the deceased or why you are applying. You can read more about exempt information here: [What is exempt information](#). Information is contrary to the public interest to release if there are strong public interest reasons not to release it. You can read more here: [What is the public interest](#).

The privacy of a deceased person

The RTI Act places a high weight on the public interest in protecting other people's privacy, and this includes the privacy of deceased people. Sometimes your relationship with, or knowledge of, a deceased person can reduce the weight given to their privacy interests and mean it won't be contrary to the public interest to release their information to you.

Circumstances that can reduce the weight given to the deceased's privacy interests can include:

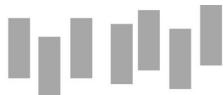
- a close family relationship
- the extent of your knowledge of, or involvement in, the deceased's care, medical treatment, or life, if relevant to the information applied for
- your knowledge of the circumstances surrounding their death, if relevant to the information applied for; and
- any special dependence or relationship between you and the deceased.

Sometimes why you want access to the deceased person's information may affect the public interest in its release, for example, if you are seeking the information:

- to understand the reasons for agency decisions made about the deceased's care or treatment,
- to understand the circumstances surrounding their death; or
- to assess how an agency treated the deceased.

These are likely to be strongest where:

- the information would allow an assessment of whether the agency's actions, care, and/or treatment were appropriate; and
- disclosure of the information would expose unsatisfactory or negligent performance, allowing remedial or compensation action to be taken.



It is extremely unlikely that a deceased person's information would be released to someone who did not have a close relationship with the deceased and/or was not closely involved in the deceased person's situation, care, or life.

Eligible family members

Eligible family member is a term used in the RTI Act to describe people with specific relationships to the deceased. The Act recognises that there is a public interest in eligible family members having access to their deceased relative's information. However, it also recognises that in some circumstances doing so can have a significant impact on the deceased's privacy.

The RTI Act has a priority list of eligible family members. If people higher in the list are available, people lower in the list cannot apply as an eligible family member, although they can still apply.

For more information, refer to the [*Eligible family member*](#) guideline.

Do I have to say why I'm applying or disclose my relationship to the deceased?

No, you do not have to tell the agency why you want the information or what your relationship to the deceased person was. However, because there is such a strong weight placed on a deceased person's privacy, if you do not give the agency any information to counter it there is a low likelihood that you will be given access to their information.

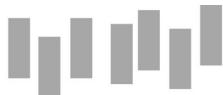
What information should I send with my application?

If you are applying as an eligible family member, you should provide proof of your relationship and, if necessary, evidence that anyone higher in the list than you is not available, for example a death certificate if they are deceased.

If you are applying as a relative or on the basis of any other relationship, you should provide evidence of that relationship. For example, a parent applying for a deceased child's records could provide a copy of the child's birth certificate, and an adult guardian applying for their deceased charge's information could provide guardianship papers or other documentation evidencing the relationship.

If you are seeking access to the information for specific reasons, any evidence you have that supports those reasons should be included with your application. If you are unsure what might be needed, you can contact the relevant RTI Unit and discuss it with them. Most RTI unit contact details are available on the agency's website, but if you are unable to locate them, contact the Enquiries Service using the details at the end of this guideline and we will try to assist.

For more information on applying, refer to [*How do I apply for government documents?*](#)



Office of the Information Commissioner Queensland

Historical records

Records that contain information about the personal affairs of an individual are generally subject to a restricted access period of 100 years from the date of the last action on the file. After that time they may be available to access without the need to make an RTI Act application.

If you are seeking to access these kinds of records you can contact Queensland State Archives on (07) 3131 7777 or visit their [website](#).

For additional information and assistance please refer to [*Applications for records of deceased people*](#) 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 enquiries@oic.qld.gov.au.

Published 21 June 2022 and Last Updated 21 June 2022

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