Office of the Information Commissioner
Queensland

Interpreting the legislation – *Right to Information Act 2009*

Proactive Disclosure and Publication Schemes

Section 21 of the *Right to Information Act 2009*

1.0   Overview

This Guideline explains the concept of 'proactive disclosure' and sets out how agencies can meet publication scheme requirements under the *Right to Information Act 2009 (Qld)* (**RTI Act**)[1] and the Ministerial Guidelines[2].

2.0   What does proactive disclosure mean?

Proactive disclosure occurs where an agency releases information without being asked for it, for example by publishing datasets on its website. It increases the flow of information from government to the community and limits the need for formal applications under the RTI Act.

Publication schemes, disclosure logs[3], and administrative access schemes are types of proactive disclosure, supported and/or required by the RTI Act.

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[1] See section 21 of the RTI Act.
[2] Available at www.rti.qld.gov.au.
[3] A disclosure log makes information disclosed to an applicant under the RTI Act available to a wider public audience. For further information about disclosure log obligations for departments and Ministers and disclosure log obligations for other agencies, see the *Disclosure Logs Guidelines*.

The RTI Act sets out that, where it is suitable to do so, information should be released informally as a matter of course, with access applications being used as a last resort.[4]

Some principles, strategies and standards to enhance proactive disclosure include:

- putting systems in place to identify information suitable for proactive release
- giving authority to officers to release information without the need for an access application under the RTI Act
- publishing datasets in accessible formats that promote their reuse
- making sure website pathways to access information are clear
- adding metadata to documents to make them discoverable through search engines; and
- only refusing to release information informally when there is good reason.

2.1 What are the advantages of proactive information release?

Proactive information release:

- puts information into the community faster and at lower cost
- reduces agency time and resources spent processing individual information requests; and
- demonstrates a commitment to openness, accountability and transparency, which in turn may increase confidence in government.

2.2 What options should an agency give to access information?

Agencies could consider including links to the following options for accessing information on their website:

- the agency's publication scheme
- the agency's disclosure log
- the agency's administrative access schemes
- published datasets, including those available through the Queensland Government Open Data portal
- agency contact details to obtain further information; and
- how to make a formal application under the RTI Act.

3.0 Publication schemes

3.1 What is a publication scheme?

A publication scheme is a structured list of agency information that is available to the public. The RTI Act and the Ministerial Guidelines

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[4] As outlined in the preamble to the RTI Act.

require agency publication schemes to meet certain minimum standards.

3.2   Does an agency require a publication scheme?

Section 21 of the RTI Act requires all agencies covered by the RTI Act, other than 'excluded entities'[5], to have a publication scheme.

3.3   What are the requirements of a publication scheme?

Publication schemes must comply with the Ministerial Guidelines. The Ministerial Guidelines set out classes of information into which the publication scheme must be organised and broadly state the kinds of information that must be available under each class.

Agencies need to provide details of:

- the information they will proactively make available
- how the information can be accessed
- any terms on which the information will be made available, including any charges
- the alternative formats in which information is available; and
- how to make a complaint when information included in the publication scheme is not available.

3.4   Key principles

- Access to information should be provided, unless its disclosure would, on balance, be contrary to the public interest.

- There should be proactive and maximum disclosure of all (non-personal) information held by an agency that falls within the specified classes of information.

- Information should, where possible, be available online (through the agency website) and at no cost, except where providing access would impose significant costs to the agency.

- Where access is not available online, agencies should endeavour to meet all reasonable requests to provide information in an alternative format. An agency may charge for the reasonable actual costs of providing the information in an alternative format, but there should be no charge for alternative access in cases where a person's inability to access a document online is due to a disability.

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[5] The term 'excluded entity' means a 'prescribed entity' which is an entity that is a public authority only because it is a given public functions under an Act and is declared by regulation to be a public authority for the RTI Act (see section 16(4) of the RTI Act and discussion in the Guideline: *What is the right of access in the RTI Act?*).

- Information made available under publication schemes should be reviewed and updated on a regular basis.

3.5   *What are the classes of information?*

The Ministerial Guidelines set out seven classes of information to be included in a publication scheme:

- About us (Who we are and what we do)
- Our services (The services we offer)
- Our finances (What we spend and how we spend it)
- Our priorities (What our priorities are and how we are doing)
- Our decisions (How we make decisions)
- Our policies (Our policies and procedures)
- Our lists (Lists and registers)

3.6   *What quality of information must be included?*

The Ministerial Guidelines state that the information included must be:

- **Significant** (for example, key initiatives and policy documents)
- **Appropriate** (having regard to existing legislation, privacy principles and security concerns)
- **Accurate** (all efforts should be made to ensure that information is accurate, taking into account material already published, and that it is assessed against material on the same topic that may be published in the future).

3.6.1   What information is 'significant'?

Factors which can assist agencies to identify significant information include:

- experiencing a high demand for certain categories of information
- whether the information is required to be published by law, such as corporate plans, financial planning documents or public registers
- information relating to problems currently faced by government which the community could help resolve
- the information relating to future challenges, such as events associated with climate change
- whether the information will facilitate industry development, efficient markets and growth in trade and commerce
- documents tabled in Parliament
- whether the information assists members of the public to identify what information is held by the agency, such as an information asset register

- whether publication would promote agency accountability, such as reasons for certain decisions, governance arrangements and achievement of key performance targets
- information that could inform policy and program work of other agencies or non-government organisations, such as statistical information
- whether the information relates to a program or initiative that was the subject of a media release or highlighted in a corporate plan or strategy
- plans that underpin achievement of the agency's strategic and operational goals; and
- whether the information promotes community well being.

What is considered significant will likely change over time as circumstances faced by the community and government priorities change.

It is particularly important for the publication scheme to include the agency's key documents such as the annual report, strategic plan and budget highlights and any registers that the agency is required under legislation to maintain. Section 20 of the RTI Act requires an agency to make copies of each of its policy documents available for inspection and purchase by the public. In line with proactive disclosure these documents should be listed on the agency publication scheme.

Note

Although information may seem uninteresting or insignificant from the agency's perspective, it is important to consider that value can be created by combining data from a range of sources or using it in innovative ways.

For example, the UK Government has published over 9000 public sector datasets (www.data.gov.uk). Members of the public are able to access this information and use it in whatever ways they like. This has resulted in the development of a range of applications (or 'apps') that provide improved access to public data and deliver social and economic benefits.

3.7 What type of information would not be appropriate to include?

The Ministerial Guidelines state that an agency should consider existing legislation, the privacy principles, and security issues when deciding if information should be included in a publication scheme.

The object of the RTI Act is to provide access to as much information as possible unless it is not in the public interest to do so. When deciding whether information is appropriate for a publication scheme, the grounds of access refusal under the RTI Act are a useful starting point.

3.7.1   Personal information

Agencies are required to comply with the privacy principles in the *Information Privacy Act 2009* and should ensure that any disclosure or publication of personal information is done in accordance with their obligations under that Act.

3.7.2   Disclosure prohibited by Act

Many agencies operate under legislative confidentiality or secrecy obligations that apply to the officers of that agency or to the information with which they work. It will not be appropriate to include information covered by these provisions in a publication scheme or otherwise proactively disclose it.

4.0   Format, accessibility and availability of information

4.1   Contact details

Agencies should ensure that the publication scheme includes appropriate contact details. If these are the general customer service contacts, call centre staff should be trained on the agency's publication scheme, any administrative access arrangements and be able to assist the public in how to request access to information held by the agency.

4.2   Web format preferred

The Ministerial Guidelines state that, where possible, information listed in a publication scheme should be accessible through a direct link to the document on the agency's website. If the information is only available in hard copy, a summary describing the documents should be included in the publication scheme, together with details on how to obtain the document.

If someone is unable to access information via the online publication scheme, agencies should endeavour to meet all reasonable requests to provide the information in an alternative format (such as a printed copy or via CD).

4.3   Is the publication scheme easy to locate?

An agency should ensure that their publication scheme is easy to find, for example via a 'Right to Information' link in the footer of the website home page.

This is a requirement of the Queensland Government's Consistent User Experience Standard. One aspect that is considered by OIC when auditing publication schemes is how many steps (or mouse clicks) are required to find the publication scheme.

If it is not possible to include a Right to Information link on the homepage, agencies should ensure that a member of the public can navigate to the publication scheme in a logical manner. For example,

by locating the RTI link on the 'About us' menu of the website. Agencies should also ensure that the publication scheme can be located by using the website's search function.

4.4 Are the documents accessible?

Agencies should ensure that their websites (including linked documents) are accessible and usable for all groups of the community, particularly those who are vision, speech or hearing impaired and for those whose first language is not English.

Information Standard 26[6] requires Queensland Government agencies (excluding local councils and some others) to meet certain minimum requirements for the creation and maintenance of agency internet sites, which includes the following strategies for ensuring that web pages are accessible to as many people as possible:

- Consistent User Experience (CUE) Standard; and
- World Wide Web Consortium (W3C) Web Content Accessibility Guidelines.

These standards may be a useful guide even for agencies not required to comply with them.

Example

One way to make information more accessible is to avoid creating documents as a scanned image when preparing them for publication on the disclosure log or publication scheme. Generating documents in this way creates a file which cannot be read by screen readers.

Agencies should provide documents in accessible formats such as Word (.doc), Portable Document Format (.pdf) or Rich Text Format (.rtf). When releasing datasets agencies should:

- make data available in open formats such as Comma-Separated Values (.csv) and Extensible Markup Language (.xml)
- follow metadata standards
- have clear usage licences; and
- advise of data quality and length of time data will continue to be produced.

5.0 Providing the information

Information in the publication scheme must be accessible on the agency's website or by contacting the agency directly.

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[6] *Internet – IS26* is available on the Queensland Government Chief Information Office (QGCIO) website: http://www.qgcio.qld.gov.au/

5.1 Fees and charges

Generally, unless the information is part of an existing administrative or statutory scheme for which charges are payable, information in the publication scheme should be made available at no cost.

However, in some cases access charges may be reasonable to cover the costs of photocopying, postage or supervised access to inspect documents. Any charges should be justified, limited to the actual cost of provision, and clearly set out in the publication scheme.

5.2 Open Licensing

Open licensing promotes proactive release of information by making it easier to access and re-use government-held information.

Information Standard 33[7] (IS33) requires Queensland Government departments to use a consistent framework to license information made available to the public for use and re-use where copyright is owned by the State of Queensland.

The Queensland Government's framework for licensing government information is the Australian Governments Open Access and Licensing framework (AusGOAL). The AusGOAL[8] framework is primarily a copyright management framework which:

- encourages open access to public sector information
- makes it easy for people who use government information to understand the rights of use associated with it; and
- reduces the administrative burden in managing licensing of information by providing clear methodical processes and a simple licensing system.

6.0 Reviewing and maintaining publication schemes

6.1 Publishing new information

Publication schemes should be updated to include new information, for example, when:

- new or revised legislation is passed
- new or revised policies are introduced
- new publications are released
- new initiatives or projects commence; or
- the agency is restructured.

Agencies are encouraged to review their systems for publication of information to the agency's public website to ensure that information being published is reviewed and maintained according to the requirements.

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[7] *Information access and use – IS33* is available on the QGCIO website: http://www.qgcio.qld.gov.au/
[8] For more information on the AusGOAL framework, please refer to www.ausgoal.gov.au

> **Example**
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> Agencies that require business units to complete a work request to request changes to their internet site could include a question on this form that requires an assessment of whether the information is suitable to link from the publication scheme.
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> Agencies with an electronic document and records management system (EDRMS) could consider introducing a system of classifying documents as suitable for release at the time they are created. In this way, inclusion of that information in the publication scheme can be automatically generated. [9]

6.2   *How long should information stay on the website?*

Agencies need to ensure information in the publication scheme is relevant, up to date and accurate, and that outdated material is archived or removed.

7.0   Complaints to agencies

The Ministerial Guidelines require agencies to have a procedure in place which allows people to make a complaint if information listed in the publication scheme is not available. The procedure and relevant contact details for making a complaint about the publication scheme should be clearly set out.
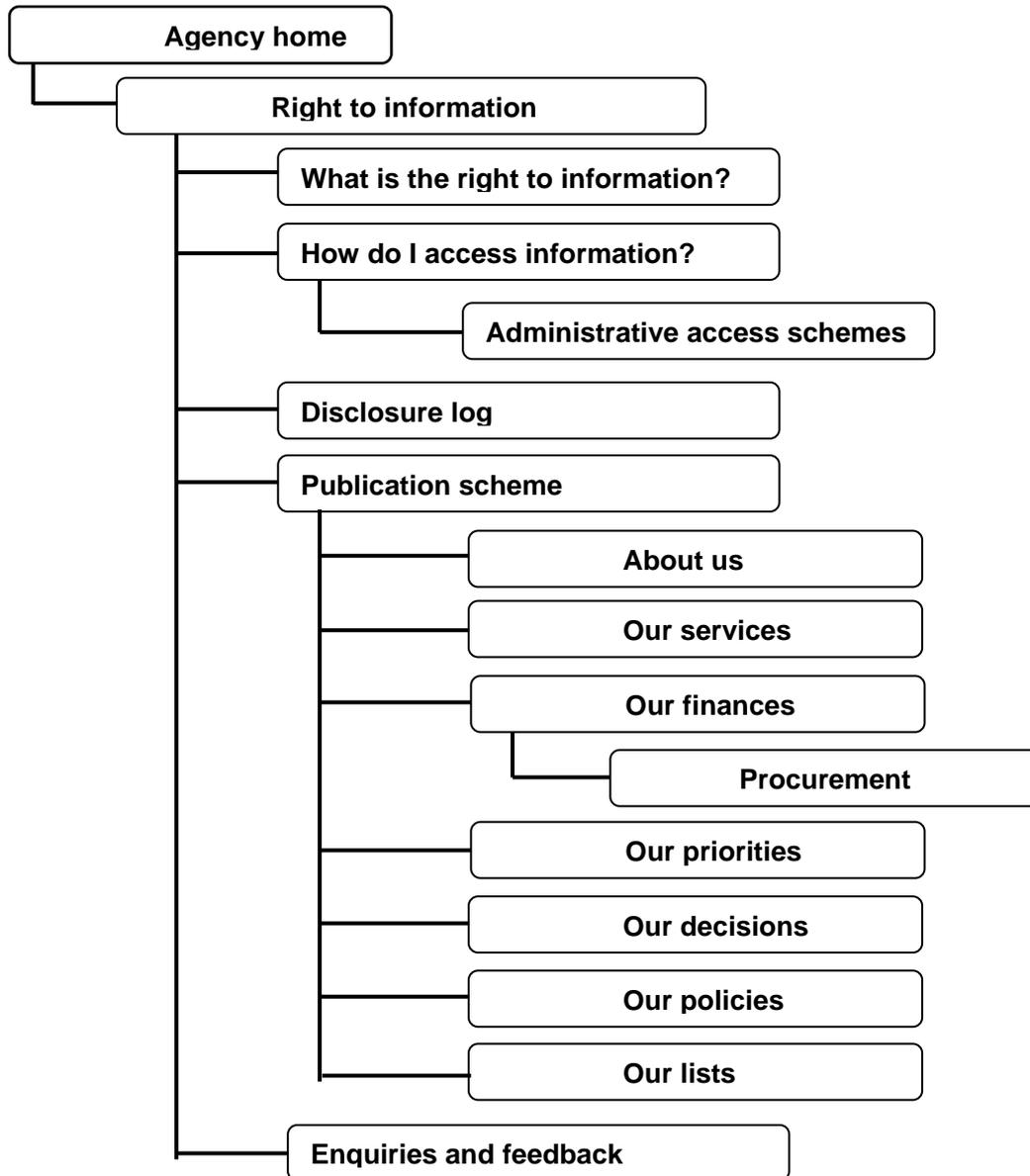
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[9] For further information see the Queensland Government Enterprise Architecture Guideline: *Determining the ex ante release status of information* 2009 available on the QGCIO website: http://www.qgcio.qld.gov.au/.

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8.0   Sample RTI web page navigation structure

The following model illustrates how an agency might arrange the Right to Information content on their website.

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Agency home
    Right to information
        What is the right to information?
        How do I access information?
            Administrative access schemes
        Disclosure log
        Publication scheme
            About us
            Our services
            Our finances
                Procurement
            Our priorities
            Our decisions
            Our policies
            Our lists
        Enquiries and feedback
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For additional information and assistance please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.

This guide 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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