

Corporate Policy Right to Information and Privacy

Policy Statement

The Department of the Premier and Cabinet (DPC) is committed to ensuring a balance in the need to protect the integrity of Right to Information (RTI) and Information Privacy (IP) decisions and individual's privacy with the need for appropriate reporting to the Premier and Director-General.

Scope

This policy applies to the DPC and the Office of the Premier.

Principles

This Policy provides principles for maintaining the independence of RTI and IP decision making during briefings to the Office of the Premier, the Director-General and Senior Executives of DPC and establishes a reporting process for RTI and IP access applications.

Context

The *Right to Information Act 2009* (RTI Act) and *Information Privacy Act 2009* (IP Act) are transparency and accountability measures adopted by government to increase the flow of information in the Government's possession or under the Government's control to the community. Principal Officers – the Director-General and the Premier – are the responsible decision-makers on access applications made to their agencies.

The Principal Officers have delegated RTI and IP decision-making powers to departmental officers.

The Principal Officers are required to be kept informed of significant decisions and be briefed on applications made to their agencies under the RTI Act or IP Act insofar as they are relevant to their respective areas of responsibility. The privacy obligations in the IP Act concerning storage, use and disclosure of such information apply to all Queensland Government agencies.

All applications received from media organisations and political parties are automatically managed under this policy.

The RTI Act and IP Act expressly outline how an access application should be processed and the grounds on which decisions to give or refuse access must be based. The RTI Act explicitly states that decision-makers must disregard any irrelevant factors such as possible embarrassment to the Government or loss of confidence in the Government.

Under the RTI Act and IP Act, it is an offence to direct a person to make a decision the person believes is not the decision that should be made. It is also an offence to direct an employee or officer of the agency or Minister to act in a way contrary to the legislative requirements.¹

Reporting

Generally, reporting is limited to applications where giving access to information which may result in public debate.

Under this policy, reporting:

- is for information only consistent with the RTI Act and on a need-to-know basis consistent with the IP Act.² Consideration should be given to the offences relating to giving direction in the RTI Act and IP Act;
- should be limited to procedural matters such as statutory timeframes, the scope and status summary of the application;

¹ See section 30 and 175 of the RTI Act and sections 50 and 184 of the IP Act.

² Information Privacy Principles 8, 9 and 10 and National Privacy Principle 2 deal with secondary uses of personal information held by agencies. Departmental RTI and IP reporting processes will need to comply with the relevant principles.

- should be managed separately from information retrieval processes and liaison between RTI and IP units and operational custodians of information; and
- must be conducted and stored in accordance with section 7 of the *Public Records Act 2002* and managed in a manner which does not impact on statutory timeframes.

This Policy represents a performance standard under section 131 of the RTI Act that:

- applies to departments of government declared under section 14 of the *Public Service Act 2008*;
- applies to Ministers and ministerial staff members; and
- supplements the Queensland Government's *Protocols for communication between ministerial staff members and public service employees*.

Any inspection of documents containing sensitive information, such as personal health information, should be limited, especially where such documents are not considered by the decision-maker as suitable for release to the applicant.

Responsibilities

Right to Information and Privacy Unit

- Provide advice and direction to the DPC and the Office of the Premier in accordance with this policy.
- Develop and disseminate reports as required, in consultation with Principal Officers, or their representatives.

RTI, IP and Internal Review Decision-Makers

- Comply with this policy and make decisions on access to information in accordance with their respective delegations.
- Note this policy does not override or supersede the decision-makers' responsibilities under a particular Act or Regulation.

Organisational Units

- On request, ensure the prompt return of information and/or documentation within required timeframes. Delays may result in non-compliance with statutory timeframes, increased risk to the department, or lessen available time for internal and external consultations.
- On request, provide separate briefings if further background is required by the Premier or Director-General.
- Provide a valid reason for seeking an extension to the statutory timeframes if an extension is required.

Director-General

- Where the Director-General disagrees with a proposed decision, the Director-General should make the final decision.
- Exercise discretion concerning release of information even when that information could lawfully be withheld.

Related Documents

- [Right to Information Act 2009](#)
- [Information Privacy Act 2009](#)
- [Public Service Act 2008](#)
- [Model Protocols for Queensland Government Departments on Reporting to Ministers and Senior Executive on Right to Information and Information Privacy Applications.](#)
- [Protocols for communication between ministerial staff members and public service employees](#)

Approval

Approved by Deputy Director-General, Corporate and Government Services, DPC on 18/2/2017.