## **RIGHT TO INFORMATION AND PRIVACY: ACCESS AND AMENDMENT**

## The [*Right to Information Act 2009*](http://www.austlii.edu.au/au/legis/qld/consol_act/rtia2009234/) (RTI Act) and the [*Information Privacy Act 2009*](http://www.austlii.edu.au/au/legis/qld/consol_act/ipa2009231/) (IP Act) provide members of the community, including you, a right to be given access to (RTI and IP Acts) and to amend (IP Act), documents of agencies and ministers, subject to certain restrictions. This includes documents held by the Department of Justice and Attorney-General (DJAG).

## A ‘document’ includes not only paper, but also electronic records, SMS messages, emails, CCTV footage, audio tapes and information held in databases. For the full definition of ‘document’ - see the *Acts Interpretation Act 1954.*

## The access provisions of the Acts are ‘pro-disclosure’ which means that generally, unless information is excluded from the scope of the Acts; exempt from disclosure; or contrary to the public interest to release, documents requested by an applicant must be disclosed to the applicant.

## However, accessing documents using formal mechanisms under the RTI and IP Acts is a method of last resort because formal access mechanisms can take time and become costly to applicants.

## This means if there is another way to access information held by Government, a potential applicant should be given that option before being asked to make a formal application under the RTI and IP Acts. This is the case even if fees or charges apply to the alternative access mechanism.

## Any person has a right to apply to access documents in DJAG’s possession or control under the RTI Act or, to apply to access or amend their own personal information under the IP Act. The main difference to note is that there is often no charge to access your own personal information under the IP Act.

## DJAG receives around 500 RTI and IP information access applications every year. Right to Information (RTI) and Privacy is responsible for processing access and amendment applications received by DJAG

## **What to do:**

## Be familiar with administrative access policies your business unit may have in place and the DJAG [Administrative Release Policy](https://www.justice.qld.gov.au/__data/assets/word_doc/0003/608646/administrative-release-policy.docx). These will provide you with guidance on whether and when it is appropriate to provide information outside of the formal access mechanisms in the RTI and IP Acts.

## Act quickly - if you get a search request, note that there are short timeframes for providing documents to RTI and Privacy because of the statutory decision-making timeframes under the legislation. Advise RTI and Privacy immediately if your business unit cannot meet that timeframe.

## Act immediately – if a formal access application is misdirected to you instead of RTI and Privacy, immediately forward that application to RTI and Privacy. The timeframes start running as soon as a valid application is received in DJAG so any delays in providing RTI and Privacy with the application will be likely to impact on DJAG’s ability to meet the statutory timeframes.

## Look for responsive documents in every place (including email accounts and work devices) a person ought reasonably to expect to find the documents.

## Do NOT mark, delete or obliterate any information from the documents before providing them to RTI and Privacy.

## Check the scope of what the applicant is asking for with RTI and Privacy *before* deciding not to provide documents to RTI and Privacy. If in doubt, provide us with everything you think may be relevant to the subject matter of the application.

## Advise RTI and Privacy of any concerns your business unit may have about the release of any document—your input will help inform our decision.

## Keep up-to-date, readily available and accurate records to ensure that information can be provided where appropriate.

## Keep records for as long as they are required to be kept under a General Retention and Disposal Schedule e.g. *Public Records Act 2002* (Qld) or other retention and disposal schedule approved by the archivist.

## **Enquiries**

## All enquiries should be directed to:

## Right to Information and Privacy

## Department of Justice and Attorney-General

## Level 17, State Law Building

## 50 Ann Street

## BRISBANE QLD 4000

## Phone: (07) 3738 9893 or

## Email: RTIAdministration@justice.qld.gov.au