



Title: Right to Information Guidelines

Responsible Officer: Registrar

Action Officer: Registrar

References:

Family Responsibilities Commission:

- Queensland Public Service Code of Conduct
- Information Sharing Protocol
- Family Responsibilities Service Charter
- Privacy Policy

Relevant Legislation

- *Family Responsibilities Commission Act 2008*
- *Public Records Act 2002*
- *Right to Information Act 2009*
- *Information Privacy Act 2009*
- *Freedom of Information Act 1982*
- *Acts Interpretation Act 1954*
- *Invasion of Privacy Act 1971*
- *Public Service Act 2008*
- *Public Service Ethics Act 1994*
- *Anti-Discrimination Act 1991*

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1.0 Purpose

The purpose of this guideline is to assist staff of the Family Responsibilities Commission (the Commission) in understanding the operation of the *Right to Information Act 2009* (RTI Act) and the *Information Privacy Act 2009* (IP Act) and how this legislation impacts on work practices.

2.0 Family Responsibilities Commission Privacy Statement

The Commission respects and protects people's privacy and collects, stores, uses and discloses personal information responsibly and transparently. Where legislation does not provide direction for the collection, management, use and disclosure of personal information, the Commission will operate in accordance with the 11 Information Privacy Principles (IPPs) set out in the *Information Privacy Act 2009*.

3.0 Right to Information

The RTI Act and the IP Act form the legislative basis upon which the Queensland Government exercises its commitment to transparency in government. The RTI Act and IP Act replace the *Freedom of Information Act 1992 (Qld)* and provide for a legal right of access to information held by state and local government agencies, unless on balance it is contrary to the public interest to do so. For clarification on what determines the 'public interest', refer to Annexure A, an extract of the RTI Act, Schedule 4. Schedule 4 stipulates the factors which are:

- irrelevant to deciding the public interest
- favouring disclosure in the public interest

- favouring non-disclosure in the public interest and
- favouring non-disclosure in the public interest because of public interest harm in disclosure.

The RTI Act and IP Act aim to make more information available, provide equal access to information across all sectors of the community and provide appropriate protection for an individual's privacy.

The nature of information sought determines which Act the application is based upon. The RTI Act protects your right to access information of a non-personal nature. The IP Act protects your right to access information of a personal nature. The Acts are located at:

- *Right to Information Act 2009*
- *Information Privacy Act 2009*

The Queensland Government developed the IP Act to ensure that personal information held by Queensland Government agencies is collected lawfully and is protected from unauthorised use, access and disclosure. It also recognises that people can gain access to their own personal information to check its accuracy and request changes if necessary.

The 11 Information Privacy Principles, or IPPs, which have been adapted from the Commonwealth *Privacy Act 1988*, govern the way personal information is collected, used, managed and disclosed. The IPPs can be grouped into five categories:

- collection of personal information (IPPs 1 – 3)
- security of personal information (IPP 4)
- access and amendment of personal information (IPPs 5 –7)
- use of personal information (IPPs 8 – 10) and
- disclosure of personal information (IPP 11).

Under the Information Privacy Principles, IPP 7 states:

“(1) An agency having control of a document containing personal information must take all reasonable steps, including by the making of an appropriate amendment, to ensure the personal information—

(a) is accurate; and

(b) having regard to the purpose for which it was collected or is to be used and to any purpose directly related to fulfilling the purpose, is relevant, complete, up to date and not misleading.”

Under the RTI and IP Acts, an **agency** means:

- a department
- a local government
- a public authority
- a government owned corporation or
- a subsidiary of a government owned corporation.

The term **document** is defined in section 36 of the *Acts Interpretation Act 1954* (Qld) and includes:

- “(a) any paper or other material on which there is writing; and*
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; and*
- (c) any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).”*

Under the RTI Act **document of an agency** means:

“...a document, other than a document to which this Act does not apply, in the possession, or under the control, of the agency whether brought into existence or received in the agency, and includes -

- a document to which the agency is entitled to access; and*
- a document in the possession, or under the control of an officer of the agency in the officer's official capacity.”*

The RTI Act definition of document applies similarly to the IP Act.

The IP Act establishes a process which allows individuals to apply for amendment of personal information which they claim is inaccurate according to the above definitions.

4.0 Personal Information

The IP Act defines personal information as:

“...information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.”

The information does not have to be true, nor does it need to be in written form. The information can be spoken or communicated by another means.

Identity plays a key role in determining whether the information is ‘personal’. Identity must be either:

- apparent or
- reasonably ascertainable from the specific information.

Apparent identity is not constituted by reference to various different sources of information. It is identity which is apparent from a particular source of information. Examples of apparent identity are:

- a person's name
- a person's clearly identifiable image in a photo
- information which is so particularised that it is identifiable with a particular individual.

Reasonably ascertainable identity is constituted of information which is cross-referenced, or compared with other sources of information to identify an individual. The lengths to which one must go to ascertain the identity is a determining factor, i.e.:

- can the information received identify an individual from a readily available reference
- how many steps are required to identify the individual
- how difficult is the information to obtain.

5.0 The Family Responsibilities Commission Act 2008

The *Family Responsibilities Commission Act 2008* (the Act) is the core legislation that authorises the collection, use and disclosure of personal information by the Commission.

Part 8 of the Act provides for information exchange about community members between the Commission and other entities to assist the Commission to make decisions under the Act and to support cohesive and coordinated service provision to community members.

Under section 93 of the Act, the Commissioner may ask a prescribed entity to provide relevant information about a person.

Personal information is defined under section 92(4) of the Act to mean:

“...information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.”

This definition is consistent with the definition of ‘personal information’ in the IP Act and is a broad definition which would capture any information from which a person’s identity can be ascertained.

6.0 Personal Information Collected by the Commission

To support the objectives of the Welfare Reforms, the Commission collects and manages personal information about:

- Centrelink clients living in the five welfare reform communities of Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge (a welfare reform community)
- individuals who are notified to the Commission through an agency notice.

The Commission also holds limited information about Local Commissioners and all relevant human resource information on employees, including prospective employees.

The Commission enters into contractual arrangements with external bodies for the supply of goods and services. None of the existing contracts contain personal information.

The Commission does not maintain any public registers. For specific information on personal information which the Commission collects, refer Annexure B.

7.0 Accessing Information

Information regarding the Commission's services and business operations is provided on the Commission's webpage at www.frcq.org.au.

Details about the personal information held by the Family Responsibilities Commission are outlined in the Commission's Privacy Policy. A copy of this policy may be viewed on the Commission's intranet and under Policies and Guidelines on the Commission's webpage. The Privacy Policy details the steps the Commission will take to address its obligations under the IP Act.

To access information of a non-personal nature that is not contained in the Commission's public documents and webpage, a formal application under the RTI Act can be made. To access information of a personal nature, not available in public documents or on our webpage, a formal application under the IP Act can be made. It is recommended that contact be made with the Commission prior to making a formal application as the applicant may not need to make a formal application to access the information sought.

Applications for access must be submitted in the approved form, give sufficient information concerning the document to enable the Commission to identify the document and include a return address for notification as to whether the information can be provided under the relevant Act. If an applicant wishes to apply on-line for either public or personal information, they may use the [Queensland Government's online application form](#). Alternatively an applicant may contact the Commission directly to obtain the above application form.

An **application fee** applies to access information under the RTI Act, or to access information which is a combination of personal and non-personal information. The fee increases by a small amount each financial year and is detailed on the application form. Additional processing and access charges may apply. A **processing charge** is a charge in relation to searching for or retrieving a document and making or doing things necessary in making a decision in regard to the application. **Access charges** are charges prescribed under a regulation in relation to the giving of access to the document.

To access information which is strictly of a personal nature under the IP Act, no application fee or processing charges apply, however, access charges may be payable by the applicant.

8.0 Amending Information

The IP Act establishes a process which allows individuals to apply for amendment of personal information which they claim is inaccurate according to the above definitions.

The amendment application must:

- be in the approved form ([Information Privacy Personal Information Amendment Application form](#))
- provide sufficient information concerning the document to be amended;
- state a return address
- state details as to the inaccuracy, incomplete, out of date or misleading information and
- state the amendments necessary in order to rectify the information.

When applying directly to the Commission to amend personal information, an applicant should include certified copies of appropriate identification. If identification is not included with the application, it must be provided within 10 business days after making the application. Evidence of identification can be provided by (but is not limited to) the following documents:

- passport
- copy of a birth certificate or extract
- driver's licence
- statutory declaration from an individual who has known the person for at least one year or
- copy of a prisoner's identity card that is certified by a corrective services officer.

9.0 Exempt Information

In regard to disclosure of information, in addition to the public interest test which the Commission must determine, Queensland Parliament has decreed that disclosure of certain information would, on balance, be contrary to the public interest. The Commission is still obligated, however, to give access to a document which contains exempt information where the information can be deleted from the document and the applicant wishes to be given access to such an edited document.

Schedule 3 of the RTI Act lists this **exempt information** as:

1. *Cabinet matter brought into existence before commencement*
2. *Cabinet information brought into existence on or after commencement*
3. *Executive Council information*
4. *information briefing incoming Minister*
5. *information revealing particular Sovereign communications*
6. *information disclosure of which would be contempt of court or Parliament*
7. *information subject to legal professional privilege*
8. *information disclosure of which would found action for breach of confidence*
9. *national or state security information*
10. *law enforcement or public safety information*
11. *investment incentive scheme information and*
12. *information disclosure of which is prohibited by Act.*

As each of the above exemptions is subject to specific guidelines, refer to Schedule 3 of the RTI Act in regard to the requirements for establishing whether information is exempt. Decision makers may find it helpful to access the published decisions of the Information Commissioner at www.oic.qld.gov.au.

10.0 What Should Staff do When They Receive an Application?

Any staff member who receives a letter or application requesting access to information under the RTI and IP Acts, or where it is considered that access to Commission information is being requested under the Acts must forward the letter or application to the Privacy Contact Officer immediately upon receipt. If the staff member is unsure as to whether the request would fall within the scope of the RTI and/or IP Acts, they must in any case contact the Privacy Contact Officer for clarification (refer 11.0).

11.0 Who Makes the Decision

Legislation states that an access application to an agency must be dealt with for the agency by the agency's principal officer, however, the agency's principal officer may delegate the power to deal with the application to another officer of the agency.

The Commission has appointed the following person responsible for dealing with matters under the RTI and IP Acts (otherwise known as the RTI Officer):

The Privacy Contact Officer (Client Manager)
PO Box 5438
CAIRNS QLD 4870
Ph: (07) 4081 8400

Decisions by the Privacy Contact Officer will be made in consultation with the Commissioner and the Registrar.

The Privacy Contact Officer should be contacted in relation to any queries about the application of the RTI and IP Acts.

12.0 Timeframes

Timeframes are provided in the RTI and IP Acts for actions to be taken in Commission decisions regarding access and amendment applications and also for individuals applying for review of decisions. Agencies who do not meet the required timeframes may expose themselves to a risk of potential legal action. Risks associated with not meeting timeframes are:

- applicants may lose their rights and entitlements
- decisions may not be valid and agencies may not be protected against legal action as a result and
- complaints may be escalated to external bodies, i.e. Queensland Ombudsman.

Regardless of specified timeframes, the Commission will carry out the relevant activity as soon as practicable.

There are also timeframes which have some flexibility, as well as timeframes which may be extended dependent on relevant circumstances. For both Acts timeframes are calculated in business days only. A business day means a day that is not a Saturday, Sunday, public holiday, special holiday or bank holiday. If a due date falls on one of these days, the due date is calculated as the next day that is a business day. The timeframe for calculating the due date excludes the day the application is received, i.e. this day is counted as day zero. The processing period for applications is stipulated in section 18 of the RTI Act and section 22 of the IP Act. These relevant sections should be referred to and complied with when mapping a reply to an application for access or amendment received.

The RTI and IP Acts further stipulate that a notice of decision must be given by the calculated due date. If a decision is not advised by this due date, there is a 'deemed' decision refusing access under section 46 of the RTI Act and section 66 of the IP Act. A written notice must be issued as soon as practicable after each deemed decision.

Certain events will stop the clock for the processing period. These events are:

- a charges estimate notice is sent
- an application is transferred
- an applicant agrees to additional time for the Commission to continue considering an application
- there is consultation under section 37 of the RTI Act and
- an applicant is given a notice of refusal to deal with the application because of effect on Commission functions.

Importantly, the processing clock does not stop in the event that an application is made under, say, the IP Act and it is subsequently found it should have been made under the RTI Act (and vice versa).

Additionally, if the Commission continues to process an application after the timeframe has expired, a late decision will be considered invalid at law as there is no legal authority to continue considering the application.

Generally the following time periods will apply:

- Must make reasonable efforts to contact the applicant and advise that the application does not comply and advise in what way it does not comply: *within 14 days of receipt of a request.*
- Make a decision on an application (if there is no revision period, transfer period or other period that does not count): *30 days from the date the application is received.*
- Make a decision on an internal review application: *within 30 days after the day the application was received.*
- Give a prescribed written notice advising the application is outside the scope of the Act: *10 business days from the date that the application is received.*
- Give a prescribed written notice that an application does not comply with all relevant application requirements: *15 business days after the purported application is received.*

For further timeframes imposed by the RTI and IP Acts, refer to the Timeframes for access and amendment published by the Office of the Information Commissioner (Queensland).

13.0 Notification of Decisions and Reasons

Section 54 of the RTI Act and section 68 of the IP Act state that the Commission must give a prescribed written notice to an applicant for an access application of the decision including:

- any charges applicable
- the period within which the document/s may be accessed if applicable
- the factors identified as favouring disclosure or non-disclosure
- information as to whether the document will be released to the public

Section 191 of the RTI Act and Section 199 of the IP Act state that the Commission must give a prescribed written notice of a decision which must state the following details:

- reasons for the decision

- the name and designation of the officer who made the decision and
- details of the review rights.

Written notice must be provided within strict timeframes. Refer 12.0 Timeframes.

14.0 Review Rights

If an applicant is dissatisfied with the Commission's initial decision in regard to an access application, they may apply to the Commission for a review of that decision. Reviews of decisions under the RTI and IP Acts encompass both internal and external (review by the Information Commissioner) reviews.

14.1 Reviewable decision

A reviewable decision is defined in Part 8 of the RTI and IP Acts as a decision:

- that an access application is outside the scope of the Act
- that an access application does not comply with application requirements
- to disclose a document contrary to the views of a relevant third party
- to disclose a document if an agency or Minister should have taken steps to obtain the views of a relevant third party
- refusing to deal with an application (chapter 3, part 4), refusing access to a document (section 47), deferring access to a document (section 72)
- about whether a processing charge or access charge is payable
- giving access to documents subject to the deletion of information
- giving access to documents in a form different to the form applied for by the applicant and
- which is classified as a deemed decision.

An applicant who is dissatisfied with a reviewable decision (as above) may apply to the Family Responsibilities Commission to have the decision reviewed. The internal review decision maker must not be the original decision maker and must be no less senior than the original decision maker. The review must conclude with a new decision (as if the original decision had not occurred).

An application for an internal review must be in written form, state a return address, give details of the decision to be reviewed, be made within 20 business days after the date of the written notice of decision (or as allowed) and be lodged at an office of the Family Responsibilities Commission. For further information regarding internal reviews, refer to Chapter 3, Part 8 of the RTI Act, or Chapter 3, Part 8 of the IP Act.

The Office of the Information Commissioner has responsibility for conducting external reviews of RTI decisions, monitoring and reporting on compliance with both the RTI and IP Acts and publishing guidelines and advice to the public.

An application for an external review by the Information Commissioner must be remitted to the Office of the Information Commissioner as specified above. Participants in the external review will be the applicant, the Commission and the Information Commissioner. For further information regarding external reviews, refer to Chapter 3, Part 9 of the RTI Act, or Chapter 3, Part 9 of the IP Act.

14.2 Non-reviewable decision

The following decisions are not reviewable decisions in relation to access applications:

- A decision on an internal review application
- A decision by the FRC Commissioner
- A decision by a Minister
- A decision by a healthcare professional appointed under section 30 or 31 of the RTI Act
- A decision about the amount of a charge stated in a charges estimate notice.

14.3 Advice of decision

Decisions of an internal/external review must be notified to the applicant in written form within 20 business days after the review application has been received. However, decisions should be made and delivered as soon as practicable before that point.

Should a decision not be made within 20 days, it will be assumed that the Commission/Information Commissioner has affirmed the original decision.

15.0 Giving Access

Unless on balance it is contrary to the public interest to provide access to a document, access should be provided in the form requested by the applicant. Exceptions would be if the providing of such requested form of access would:

- interfere unduly with the operations of the Commission
- prove detrimental to the preservation of the record or
- create an infringement of a copyright.

If the form of access requested falls within the points above, and the applicant is given access in a different form, the applicant must not be required to pay a charge which is greater than that which would have been payable on their original request.

Other forms of access may be:

- arrange an inspection of the document
- provide a copy of the document
- provide audio or visual viewing of the information or
- provide a transcript of the words recorded or contained in the document.

Access generally must be allowed within 40 business days after the date of decision to allow access, or otherwise as stipulated in section 69 of the RTI Act and section 84 of the IP Act.

16.0 Searching for Documents and Processing RTI Applications

Where the Commission receives an access request, searches to establish the existence of the relevant document must commence at the earliest opportunity. Details of searches conducted and associated inquiries must be recorded on the file for future reference. A record of search

is required not only in order to advise the applicant that every effort has been made to locate the information, but also to quantify a possible processing charge. Additionally, the Commission will require this record in the event the applicant applies for internal or external review of the decision. Such evidence is referred to as **sufficiency of search**.

If an applicant is of the belief that the Commission holds additional documents to those located in response to the access application, and a reviewable decision has been made, the applicant may apply for another review on the grounds of **sufficiency of search**.

The search record should include:

- location/offices at which the searches were carried out
- identification of the person who carried out the searches (by reference to name and position)
- time spent searching each location
- results of the searches, i.e. number and description of documents located
- where no documents are located, the reason why documents could not be located (i.e. never in existence/destroyed/forwarded etc)
- whether documents that were expected to be found were not found and reason
- what efforts were made to locate 'lost' documents
- if documents are reported as having been disposed of, archived or transferred, when and under what authority such actions were undertaken
- any other locations at which the searching officer believes the relevant documents could or might be found and
- parameters and indexing system used for electronic searches (i.e. screen dumps).

A copy of the search record must be kept on the access application file. To efficiently record search data and outcomes, attached are forms provided through the Office of the Information Commissioner (Queensland) which must be utilised when answering an approved access application. The forms are:

- [search record/document retrieval request form](#)
- [spread sheet to keep track of and record requested searches](#)

Should a document not be able to be located, the Commission is required by the RTI Act to give an explanation as to why the document cannot be located, and also demonstrate that all reasonable steps have been undertaken in the search for the document. A decision maker must document the following:

- a conclusion as to whether a document exists
- the grounds upon which they are satisfied that the document had or does exist and
- the basis upon which they believe all reasonable steps have been taken to locate the document.

The test to be applied by the decision maker for a document that does not exist is:

1. Are there reasonable grounds to be satisfied that the requested document does not exist?
2. Have all reasonable steps been taken to find the document?

The test to be applied by the decision maker for a document that exists but cannot be found is:

1. Are there reasonable grounds to be satisfied that the requested document has been or should be in the Commission's possession?
2. Have all reasonable steps been taken to find the document but the document cannot be found?

For further clarification in regard to how to be satisfied about the existence of a document, what relevant factors determine 'reasonable steps' and requirements in regard to searches of backup systems refer to the [Statement of Reasons – making decisions under the RTI Act and IP Act](#).

The Office of the Information Commissioner has published a [Receiving and assessing applications](#). This guideline should be followed by the Privacy Contact Officer to assist in processing applications received and to provide guidance in making appropriate decisions.

17.0 Consultation

The RTI Act and IP Act establish that information to be disclosed which concerns a **relevant third party** may only be disclosed after the disclosing agency or Minister has referred the matter to the third party to obtain their views as to whether the Act is not applicable to the particular document, the information is exempt information or contrary to public interest information. The disclosing agency or Minister must also advise the third party that if the information is released under the RTI Act, access may also be given to the document under a disclosure log.

A third party consulted in relation to an access application must receive a decision notice and has the right to seek a review of the decision.

For further clarity in regard to the consultation process, refer to section 37 of the RTI Act and section 56 of the IP Act.

For further information and assistance regarding this Right to Information Guidelines contact:

The Registrar
Family Responsibilities Commission
Level 3, 107 Lake Street, Cairns
Telephone (07) 4081 8400 Fax (07) 4041 0974

ANNEXURE A

Schedule 4 Factors for deciding the public interest

section 49

Note—

Access to a document may be refused to the extent the document comprises information the disclosure of which would, on balance, be contrary to the public interest under section 49—see section 47(3)(b).

Part 1 Factors irrelevant to deciding the public interest

- 1 Disclosure of the information could reasonably be expected to cause embarrassment to the Government or to cause a loss of confidence in the Government.
- 2 Disclosure of the information could reasonably be expected to result in the applicant misinterpreting or misunderstanding the document.
- 3 Disclosure of the information could reasonably be expected to result in mischievous conduct by the applicant.
- 4 The person who created the document containing the information was or is of high seniority within the agency.

Part 2 Factors favouring disclosure in the public interest

- 1 Disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability.

Schedule 4

- 2 Disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.
- 3 Disclosure of the information could reasonably be expected to inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community.
- 4 Disclosure of the information could reasonably be expected to ensure effective oversight of expenditure of public funds.
- 5 Disclosure of the information could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.
- 6 Disclosure of the information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.
- 7 The information is the applicant's personal information.
- 8 The information is the personal information of a child within the meaning of section 25, the agent acting for the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered to be in the child's best interests.
- 9 The information is the personal information of an individual who is deceased (the *deceased person*) and the applicant is an eligible family member of the deceased person.
- 10 Disclosure of the information could reasonably be expected to advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies.
- 11 Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.
- 12 Disclosure of the information could reasonably be expected to reveal that the information was—
 - (a) incorrect; or

- (b) out of date; or
 - (c) misleading; or
 - (d) gratuitous; or
 - (e) unfairly subjective; or
 - (f) irrelevant.
- 13 Disclosure of the information could reasonably be expected to contribute to the protection of the environment.
 - 14 Disclosure of the information could reasonably be expected to reveal environmental or health risks or measures relating to public health and safety.
 - 15 Disclosure of the information could reasonably be expected to contribute to the maintenance of peace and order.
 - 16 Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.
 - 17 Disclosure of the information could reasonably be expected to contribute to the administration of justice for a person.
 - 18 Disclosure of the information could reasonably be expected to contribute to the enforcement of the criminal law.
 - 19 Disclosure of the information could reasonably be expected to contribute to innovation and the facilitation of research.

Part 3 Factors favouring nondisclosure in the public interest

- 1 Disclosure of the information could reasonably be expected to prejudice the collective responsibility of Cabinet or the individual responsibility of members to Parliament.
- 2 Disclosure of the information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities.

Schedule 4

- 3 Disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.
- 4 The information is the personal information of a child within the meaning of section 25, the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered not to be in the child's best interests.
- 5 The information is the personal information of an individual who is deceased (the *deceased person*), the applicant is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive.
- 6 Disclosure of the information could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.
- 7 Disclosure of the information could reasonably be expected to prejudice security, law enforcement or public safety.
- 8 Disclosure of the information could reasonably be expected to impede the administration of justice generally, including procedural fairness.
- 9 Disclosure of the information could reasonably be expected to impede the administration of justice for a person.
- 10 Disclosure of the information could reasonably be expected to prejudice the security or good order of a corrective services facility.
- 11 Disclosure of the information could reasonably be expected to impede the protection of the environment.
- 12 Disclosure of the information could reasonably be expected to prejudice the economy of the State.
- 13 Disclosure of the information could reasonably be expected to prejudice the flow of information to the police or another law enforcement or regulatory agency.
- 14 Disclosure of the information could reasonably be expected to prejudice intergovernmental relations.

- 15 Disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
- 16 Disclosure of the information could reasonably be expected to prejudice an agency's ability to obtain confidential information.
- 17 Disclosure of the information could reasonably be expected to prejudice the competitive commercial activities of an agency.
- 18 Disclosure of the information could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the ombudsman or auditor-general.
- 19 Disclosure of the information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.
- 20 Disclosure of the information could reasonably be expected to prejudice a deliberative process of government.
- 21 Disclosure of the information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.
- 22 Disclosure of the information is prohibited by an Act.

Part 4 Factors favouring nondisclosure in the public interest because of public interest harm in disclosure

1 Affecting relations with other governments

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—
 - (a) cause damage to relations between the State and another government; or
 - (b) divulge information of a confidential nature that was communicated in confidence by or for another government.

- (2) Subsection (1) applies only for 10 years after the information was brought into existence.
- (3) The information commissioner may, on application by a prescribed entity, extend the 10 year period if the commissioner considers the extension in the public interest.
- (4) An application for an extension may be made before or after the end of the 10 year period.
- (5) In this section—
prescribed entity means—
 - (a) an agency or Minister; or
 - (b) an entity that would be a relevant third party under section 37 in relation to the document containing the information in relation to which the extension is sought.

2 Affecting Investigations by ombudsman or audits by auditor-general

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could prejudice the conduct of—

- (a) an investigation by the ombudsman; or
- (b) an audit by the auditor-general.

3 Affecting particular operations of agencies

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—

- (a) prejudice the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency; or
- (b) prejudice achieving the objects of a test, examination or audit conducted by an agency; or
- (c) have a substantial adverse effect on the management or assessment by an agency of the agency's staff; or

- (d) have a substantial adverse effect on the conduct of industrial relations by an agency.

4 Disclosing deliberative processes

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm through disclosure of—

- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (b) a consultation or deliberation that has taken place; in the course of, or for, the deliberative processes involved in the functions of government.

Examples of information of the type mentioned in subsection (1)—

- a document prepared by an agency about projections of future revenue for the State
 - a document prepared to inform a decision by an agency about potential road routes, where disclosure of all potential routes, including those that are subsequently rejected, could have a negative impact on property values or cause community concern
- (2) If the deliberative processes mentioned in subsection (1) include public consultation, subsection (1) applies only until the public consultation starts.
- (3) However, subsection (1) does not apply for information to the extent it consists of—
- (a) information that appears in an agency's policy document; or
- (b) factual or statistical information; or
- (c) expert opinion or analysis (other than expert opinion or analysis commissioned in the course of, or for, the deliberative processes mentioned in subsection (1)) by a person recognised as an expert in the field of knowledge to which the opinion or analysis relates.
- (4) Also, subsection (1) does not apply for information if it consists of—
- (a) a report of a body or organisation—

- (i) established within an agency; and
 - (ii) prescribed under a regulation; or
- (b) the record of, as a formal statement of the reasons for, a final decision, order or ruling given in the exercise of—
 - (i) a power; or
 - (ii) an adjudicative function; or
 - (iii) a statutory function; or
 - (iv) the administration of a publicly funded scheme.

5 Disclosing Information brought into existence for ensuring security or good order of corrective services facility

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose information that—
 - (a) is in the possession of, or brought into existence by, the department in which the *Corrective Services Act 2006* is administered; and
 - (b) is—
 - (i) a recording of a telephone call made by an offender from a corrective services facility; or
 - (ii) an audio recording made in a corrective services facility for the security or good order of the facility; or
 - (iii) a visual recording of a corrective services facility or a part of a corrective services facility; or
 - (iv) a document to the extent that it refers to or contains any part of a recording mentioned in subparagraph (i), (ii) or (iii).
- (2) In this section—

offender means an offender as defined under the *Corrective Services Act 2006*.

6 Disclosing personal information

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.
- (2) However, subsection (1) does not apply if what would be disclosed is only personal information of the person by whom, or on whose behalf, an application for access to a document containing the information is being made.

7 Disclosing trade secrets, business affairs or research

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because—
 - (a) disclosure of the information would disclose trade secrets of an agency or another person; or
 - (b) disclosure of the information—
 - (i) would disclose information (other than trade secrets) that has a commercial value to an agency or another person; and
 - (ii) could reasonably be expected to destroy or diminish the commercial value of the information; or
 - (c) disclosure of the information—
 - (i) would disclose information (other than trade secrets or information mentioned in paragraph (b)) concerning the business, professional, commercial or financial affairs of an agency or another person; and
 - (ii) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of this type to government.
- (2) However, subsection (1) does not apply if what would be disclosed concerns only the business, professional, commercial or financial affairs of the person by, or on whose behalf, an application for access to the document containing the information is being made.

- (3) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure—
 - (a) would disclose the purpose or results of research, whether the research is yet to be started, has started but is unfinished, or is finished; and
 - (b) could reasonably be expected to have an adverse effect on the agency or other person by, or on whose behalf, the research is intended to be, is being, or was, carried out.
- (4) However, subsection (3) does not apply if what would be disclosed concerns only research that is intended to be, is being, or was, carried out by the agency or other person by, or on whose behalf, an application for access to the document containing the information is being made.

8 Affecting confidential communications

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if—
 - (a) the information consists of information of a confidential nature that was communicated in confidence; and
 - (b) disclosure of the information could reasonably be expected to prejudice the future supply of information of this type.
- (2) However, subsection (1) does not apply in relation to deliberative process information unless it consists of information communicated by an entity other than—
 - (a) a person in the capacity of—
 - (i) a Minister; or
 - (ii) a member of the staff of, or a consultant to, a Minister; or
 - (iii) an officer of an agency; or
 - (b) the State or an agency.
- (3) In this section—

deliberative process information means information disclosing—

- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (b) a consultation or deliberation that has taken place;
- in the course of, or for the purposes of, the deliberative processes involved in the functions of government.

9 Affecting State economy

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could—
 - (a) have a substantial adverse effect on the ability of government to manage the economy of the State; or
 - (b) expose any person or class of persons to an unfair advantage or disadvantage because of the premature disclosure of information concerning proposed action or inaction of the Assembly or government in the course of, or for, managing the economy of the State.
- (2) Without limiting subsection (1)(a), that paragraph applies to information the disclosure of which would reveal—
 - (a) the consideration of a contemplated movement in government taxes, fees or charges; or
 - (b) the imposition of credit controls.

10 Affecting financial or property interests of State or agency

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could have a substantial adverse effect on the financial or property interests of the State or an agency.
- (2) Subsection (1) applies only for 8 years after the information was brought into existence.

Records containing personal information

In the performance of its functions, the Family Responsibilities Commission holds the following records containing personal information to assist the Commission to:

- identify community members who are failing to comply with their welfare obligations relating to school enrolment and attendance, child safety and welfare matters, unlawful activity and compliance with tenancy obligations
- decide who is within the jurisdiction of the Commission
- decide who the Commission should have a conference with
- decide on appropriate conference outcomes
- monitor compliance with Family Responsibilities Agreements, Orders and Case Plans.

The Commission receives the following data extracts from the Commonwealth Government:

- Data is accessed by the Commission on the Unified Government Gateway site which comprises personal information disclosures inclusive of address histories and income management information
- Department of Human Services, Centrelink data extracts on clients with addresses registered in the five welfare reform communities

The Commission maintains records of agency notices, which are given to the Commission in the following circumstances:

- a person's child is absent from school within a welfare reform community three times in a school term, without reasonable excuse
- a person's child is absent from school outside of a welfare reform community three times in a school term, without reasonable excuse and the principal is aware that the parent lives or has at any time since 1 July 2008 lived in a welfare reform community area
- a person has a child of school age who is not enrolled in school without lawful excuse and the Chief Executive Officer of the Department of Education and Training is aware that the parent, or their child lives, or has at any time since 1 July 2008 lived in a welfare reform community area
- a person is the subject of a Child Safety and Welfare Notice and the Chief Executive Officer of the Department of Communities Child Safety and Disability Services is aware that the notice relates to conduct that occurred in a welfare reform community area, or that the person, the subject of the allegation lives or has at any time since 1 July 2008 lived in a welfare reform community area for a period of three months
- a person is convicted of an offence in the Magistrates Court in a welfare reform community, Cooktown or Mossman, or another Queensland Magistrates Court when the Clerk of the Court has been advised that the offender lives, or has at any time since 1 July 2008 lived, in a welfare reform community area for a period of three months or
- a person breaches his or her tenancy agreement in relation to social housing in a welfare reform community – for example, by using the premises for an illegal purpose, causing a nuisance or failing to remedy rent arrears.

The Commission maintains records of conference proceedings and outcomes, including:

- notices to attend a conference
- records of conferences
- Family Responsibilities Agreements
- Family Responsibilities Orders and
- Family Responsibilities Case Plans.

The Commission maintains records prepared in monitoring a person's compliance with a Family Responsibilities Agreement, Order and Case Plan, such as Monthly Progress Reports from service providers to which Commission clients have been referred under a Case Plan, and case notes relevant to the client.

The Commission also maintains records prepared in relation to community members who seek voluntary referral to the Commission and enter into voluntary agreements or income management arrangements.

Relevant information about individuals who are notified to the Commission and are within the jurisdiction of the Commission is maintained on an electronic client database. The database may include the following personal information:

- client names, alias, date of birth, address history, details of their children, Centrelink payment history and income management information
- school information inclusive of children's names, date of birth, school being attended, details of carer/parent/grandparent/guardian and addresses
- Magistrate Court information inclusive of details of convictions, plea and sentence, community service orders/probation orders, DV orders and bail conditions
- Child Safety and Welfare Notices inclusive of substantiated and unsubstantiated allegations, investigation details, details of Intervention and Parental Agreements, Case Plans, Child Safety history and individual's details contained within the Child Safety and Welfare Notice
- tenancy notices inclusive of lease details/occupant details, arrears of rent and damage to property
- Queensland Corrective Services information inclusive of record of imprisonment, release, corrective courses completed
- Queensland Corrective Services, Probation and Parole information including further details on community service orders and probation orders
- conference information inclusive of conference dates, times, names of support persons present, outcomes of conference and decision making process
- service provider information inclusive of client attendance at Wellbeing Centres, Parenting Programs, MPower, Student Case Management Framework, Queensland Health programs and; compliance with Conditional Income Management and secondary referrals
- compliance/non-compliance with Case Plans, details of goals and actions to be completed in the Case Plans and details of appeals or amendments sought to Commission orders/agreements.

Physical client files are also maintained for each individual who has been notified to the Commission and who falls within the jurisdiction of the Commission. The physical client files contain information as detailed above, including additional correspondence.

Relevant information about individuals who are notified to the Commission and are not within the jurisdiction of the Commission is maintained on a physical file. These records are destroyed as soon as practicable if the person continues not to be within the Commission's jurisdiction.

The Commission holds personal information in relation to employees for the purpose of paying wages and entitlements, monitoring performance and staff training. Records held in relation to Commission employees include:

- employee names, addresses, phone numbers, work histories, training undertaken, tax file details, bank account details, emergency contact details, next-of-kin details inclusive of addresses and phone numbers, selection criteria details, professional development plans and various other human resource documents.