

1. Policy Statement

The purpose of this policy is to provide a process and guidelines in relation to right of access under the provisions of the *Right to Information Act 2009* ["the Act"] to information held by Hinchinbrook Shire Council ["Council"].

2. Scope

This policy applies to information in Council's possession or under its control, except for exempt information. This policy does not cover matters relating to disclosure of personal information which is handled under Council's Information Privacy Policy.

3. Responsibility

- 3.1 The Strategic Management team, Operations Review Committee and Managers are responsible for circulating this policy and for ensuring that access to information is managed in accordance with this policy.
- 3.2 All matters concerning right to information (RTI) or information privacy (IP) are to be made to the Records & Customer Service Manager who is Council's designated RTI and IP Officer.
- 3.3 All employees and persons representing Council who are asked about right to information matters must refer the matter to the RTI Officer and/or provide the applicant with information and/or a copy of this policy and the approved application form.
- 3.4 Specifically, all employees and persons representing Council are not authorised to provide access to information to any person, unless this has been specifically authorised by the IP Officer.
- 3.5 The Chief Executive Officer (CEO) is responsible for conducting an internal review upon request, except where a decision relating to access to information was made by the CEO.

4. Definitions

Document means a document, other than a document to which this Act does not apply, in the possession or under the control of Hinchinbrook Shire Council, whether brought into existence or received by Council. It includes a document in the possession or under the control, of an Officer of Council in the Officer's official capacity. Documents may include paper files, microfiche, print-outs, computer records, files, visual material and audio recordings.

Access Charge means the charge prescribed under a regulation in relation to giving access to the document. This charge must be paid before access is provided to the document. The applicant must also pay the charge even if access to the document is refused under the Act or where the applicant does not access the document within the access period of time advised to them.

Processing Charge means the charge prescribed under a regulation for searching for or retrieving the document and making, or doing things related to making, a decision on the application.

Approved Form refers to the Right to Information & Privacy Access Application Form.

5. Policy

- 5.1 This policy and its associated documents apply from the Current Version Adopted Date.
- 5.2 A copy of this policy is available for public access at Council's Customer Service Reception and on its website at www.hinchinbrook.qld.gov.au

Electronic version current. Uncontrolled Copy current only at time of printing

Policy Number: XX_P_XXX Right to Information Policy

Authorised By: Strategic Management Team

Document Maintained By: Administration

Version No: 1.0

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Current Version Adopted: 22 Sept 2010

Next Review Date: 1 June 2012

5.3 This policy must be read in conjunction with the Right to Information Act 2009. Where this policy is silent on any matter, guidance will be sought from the Act.

6. Disclosure Log

6.1 The RTI Officer will maintain a Disclosure Log which provides online access to certain information already released under the FOI and RTI Acts, which will be published on Council's website.

6.2 As at the time of publication of this document, Council has not received any requests under the RTI Act 2009, and as such a disclosure log does not yet exist.

7. Making an Access Application

7.1 Access applications must be made on the *Right to Information & Privacy Access Application Form*.

7.2 The RTI Officer will determine if the information or document requested is available under the provisions of the *Right to Information Act 2009*.

7.3 The RTI Officer will not refuse to deal with an access application because it does not comply with all relevant access application requirements without first giving the applicant a reasonable opportunity to consult with a view to making an access application that complies with all relevant application requirements.

7.4 The applicant is taken to have made an access application under this Act when the application is made in the approved form complying with all relevant access application requirements.

7.5 The RTI Officer has 25 business days to provide the applicant with a decision regarding access for information, although extensions are permitted under the Act in certain situations, and these will be communicated if necessary.

7.6 Access to a document may be given by the RTI Officer through providing a reasonable opportunity to inspect, hear or view the document or by providing a copy of the document to the applicant.

7.7 The applicant must access the document within 40 business days (or within any additional period allowed by the RTI Officer) after the date of the decision. If the document is not accessed within the allowed period, the person's entitlement to access the document/s under the application ends.

7.8 If an application made under another Act should have been made under this Act, the following applies:

- the applicant is given an opportunity to change the application or to pay the application charge payable under this Act and have the application dealt with under this Act.
- If the applicant pays the access application charge payable under this Act, the applicant is taken to have made the application under this Act on the date of the payment.
- To facilitate this, the approved form for an access application under this Act is the same as the approved form for an application under the Information Privacy Act.

8. Payment of Charges

8.1 The charges that may apply to an RTI request are as follows:

- Access Application Charge is Nil GST \$38.00
- Photocopies per A4 page are Nil GST \$0.20
- Processing Charge Per 15 minutes - where applicable Nil GST \$5.80

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- Accessing Charge Nil GST is any actual cost incurred by Council that is passed on to the applicant
- 8.2 RTI charges may be amended from time to time to comply with legislative changes as they occur.
- 8.3 Payment may be made in the following forms:
- Cheque - crossed, marked 'not negotiable' and payable to Hinchinbrook Shire Council
 - EFTPOS and Credit Card payment
 - Cash (do not send through mail)
- 8.4 Applications relating to personal information do not incur an access application charge. Applications requesting to access personal information as well as documents covered under the Right to Information Act do incur an access application charge.
- 9. Charges Estimate Notice**
- 9.1 When a person makes an access application and pays the access application charge to Council, the RTI Officer will make a considered decision as to whether a processing charge and other charges are payable.
- 9.2 The RTI Officer will provide a written charges estimate notice to the applicant. After receiving a charges estimate notice, the applicant may consult with the RTI Officer with a view to narrowing the application to reduce the applicable charges. Where the access application is altered, a new charges estimate will be issued.
- 9.3 The charges estimate notice will include an estimated amount of any processing charge(s) required to satisfy the access application.
- 9.4 The applicant is required to accept the charges estimate notice in order for the RTI Officer to proceed with the access application. Council's processing period commences when the estimate is accepted.
- 10. Third Party Consultation**
- 10.1 If the document requested contains information which may reasonably be expected to be of concern to a third party then the documents may not be released until consultation with the third party occurs.
- 10.2 Should consultation be required, a further 10 business days is added onto the timeframe to allow for this. The RTI Officer will advise the applicant of this in writing.
- 11. Refusal to Deal with Application**
- 11.1 The RTI Officer will deal with an application with a pro-disclosure bias unless this would, on balance, be contrary to public interest, the applicant's best interests (healthcare information) and/or to a child's best interests, as outlined in the Act.
- 11.2 The Act contains a list of grounds under which access may be refused.
- 12. Notification of Decision**
- 12.1 The RTI Officer will provide a written notice to an applicant for an access application of the decision on the application.
- 12.2 The notification of decision may include a decision to refuse to deal with the application, on grounds on which access may be refused as allowed under the Act.

13. Appeal Rights

- 13.1 If an applicant is unhappy with a decision relating to their access application, they have the right to ask for an internal review by the CEO.
- 13.2 The application for an internal review must be made in writing, must state the address to which notices under the Act may be sent to the applicant and must be made within 20 business days after the date the written notice of decision was provided.
- 13.3 The application for an internal review may be lodged with Council or with the Minister, who must notify the applicant of the decision within 20 business days after the internal review application was made.
- 13.4 The CEO must make a new decision as if the reviewable decision had not been made, and it will not be decided by the RTI Officer.
- 13.5 If the applicant is not satisfied with the internal review decision, he/she may appeal to the Information Commissioner for an external review to take place.
- 13.6 To remove any doubt, a decision about the amount of a charge states in a charges estimate notice is not a reviewable decision for external review.

14. Further Information

- 14.1 For further information on Right to Information, please visit www.rti.qld.gov.au and www.oic.qld.gov.au.

15. Publication Scheme

- 15.1 The RTI Officer maintains a Publication Scheme setting out the types of information Council has available and the terms on which it will make the information available, located on Council's website at <http://www.hinchinbrook.qld.gov.au/web/quest/right-to-information>

16. Legal Parameters

- Information Privacy Act 2009
- Right to Information Act 2009
- Public Records Act 2002
- Public Service Act 2008
- Financial & Performance Management Standard 2009
- Public Sector Ethics Act 1994
- Civil Liability Act 2003
- Electronic Transactions (Queensland) Act 2001
- Evidence Act 1977
- Local Government Act 2009

17. Associated Documents

- Right to Information & Privacy Access Application Form
- Council's Code of Conduct
- Confidentiality clause contained in employment agreements
- HR_P_018 Health Information Policy (Internal Policy Only)