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## IPOLA GUIDELINE

### Applying the legislation – Right to Information Act 2009

#### Refusal to deal – previous application for same documents

**This guide does not reflect the current law.**

**It highlights important changes to the *Right to Information Act 2009*.**

**This guide does not constitute legal advice and is general in nature only. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.**

#### 1.0 Overview

Under the *Right to Information Act 2009* (Qld) (**RTI Act**) Queensland government agencies<sup>1</sup> can refuse to deal with applications for access to documents or amendment of personal documents if the applicant has previously applied for the same.

#### 2.0 Where an applicant has already applied for the documents

Section 43 of the RTI Act enables an agency to refuse to deal with an *access* application (or part of an application) if:

- the applicant has previously made an access application to the agency
- that application was not taken to have been withdrawn under sections 42(4) of the RTI Act
- the applicant makes a new application to the same agency for access to one or more of the same documents applied for under the first application; and
- the applicant does not give a reasonable basis for applying again.

Section 78P of the RTI Act enables an agency to refuse to deal with an *amendment* application (or part of an application) in the same way, if the first application was not taken to have been withdrawn under section 78O(4) of the RTI Act.

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<sup>1</sup> In this Guideline, references to an agency include a Minister unless otherwise specified.



### Applications under the former IP Act

As set out in sections 206M and 206N of the RTI Act, sections 43 and 78P also apply where the previous access or amendment application was made under the *Information Privacy Act 2009* (Qld) (IP Act) prior to the 1 July 2025 amendments.

While the new application must cover the same documents previously applied for, it does not need to be phrased identically to the previous application. As set out in *T95 and Queensland Police Service*<sup>2</sup>:

*the previous application was for documents relating to 'an examination authority'. The later application was for documents relating to 'execution of involuntary order to the mental health board'. Based on the subject matter of the applications and the documents located in the first application, the Commissioner was satisfied that the scope of the later application captured the same information requested in the first application.*

The first application can still be active, i.e., the decision not yet issued, when the agency refuses to deal with the second application.

### 3.0 What if the second application is a mix of new documents and previously applied for documents?

An agency can only refuse to deal with an application to the extent it seeks access to or amendment of the documents previously applied for. If part of the application is for new documents and part is for previously applied for documents, the agency can refuse to deal with those parts that are the same as the previous documents and deal with the rest of the application.

#### Example

An applicant applied one year ago for 'all documents about dog attacks from 1 January 2016 until now'. An application is taken to apply to documents in existence on the day the application is received.<sup>3</sup> So, if the applicant makes a second application with the same wording, part of the second application will be for documents previously applied for and part of it will be for new documents.

The documents from 1 January 2016 until the date of the first application will be previously applied for and the agency can refuse to deal with that part of the application. However, all documents dating from the day after the first application until the date of their second application will be new documents, and the agency will need to process them.

The agency's decision notice regarding the second application should set out both decisions (i.e. the decision to refuse to deal and the decision with respect to the new documents).

<sup>2</sup> [2020] QICmr 9 (18 February 2020) at [11]-[15].

<sup>3</sup> Section 27 of the RTI Act.



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#### **4.0 What if the first application went to, or is on, review?**

An agency can refuse to deal with a later application for the same documents even if the first application was, or currently is, the subject of a review.<sup>4</sup>

#### **5.0 What is a reasonable basis for reapplying?**

Each agency must determine whether any grounds for reapplying given by the applicant are reasonable, however these could include a change in circumstances that will impact the documents. For example, if access was previously refused because the release would prejudice an ongoing investigation which is now finalised, the fact that the investigation is finalised would be a reasonable basis for reapplying. If amendment was refused because the applicant didn't have evidence their information was incorrect, a good reason to reapply could be that they now had that evidence.

Other reasons could include the loss or destruction of the documents, a change in family relationships or family circumstances that could alter the weighting of the public interest factors, expiry of a confidentiality clause, or the applicant having new information.

**For additional IPOLA assistance, please contact the IPOLA team by email [IPOLA.Project@oic.qld.gov.au](mailto:IPOLA.Project@oic.qld.gov.au)**

**For information and assistance on current legislation, please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or by email [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au)**

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<sup>4</sup> This can be an internal review, an external review, or proceedings at the Queensland Civil and Administrative Tribunal.