
IPOLA GUIDELINE

Applying the legislation – Right to Information Act 2009

Timeframes under the RTI Act

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

The *Right to Information Act 2009* (Qld) (RTI Act) gives people the right to access agency¹ documents and to amend their personal information contained in agency documents, subject to some exceptions and limitations. The RTI Act includes specific timeframes for processing access and amendment applications and giving the applicant a decision.

2.0 The processing period

The processing period is the time a decision maker has to give the applicant a considered decision. It is the main time period in the RTI Act. Under section 18 of the RTI Act, it starts at **25** business days and is the total of that period and any additional periods that apply when the agency takes certain actions.

2.1 When does the processing period start?

The processing period runs from the *valid application day*, which is day zero. *Valid application day* is defined in section 18(4) as the day the application complies with all relevant application requirements.

If the application is compliant when it arrives, the processing period starts on the next business day. If it is noncompliant when it arrives, the processing period starts on the business day after it is made compliant.

If the application is a referral from the Information Commissioner for additional documents located during an external review, the valid application day will be the day of referral.² If the application results from a 'remittal' by the Commissioner, so

¹ Agency in this guideline includes a Minister or other entity subject to the RTI Act.

² Section 105A of the RTI Act.

that the agency may make a decision about access or amendment, the valid application day will be 21 days after the Commissioner gives the agency notice of this.³ Refer to [Review rights under the RTI Act](#) for more information.

3.0 The internal review processing period

The internal review processing period (**IRPP**) is the time a decision maker has to give an internal review applicant a decision on their internal review. Like the processing period, it begins when the agency has a valid application. It starts at **20** business days, and is the total of that period and any additional periods that apply when the agency takes certain actions.

The processing period and IRPPs operate in very similar ways, but this guideline only covers the processing period. Refer to [Internal review](#) for information on the internal review processing period.

4.0 How do RTI Act timeframes work?

There is no clock-stopping in the RTI Act. The length of the processing period is calculated by adding the Act's various time periods to the processing period's minimum 25 business days.

Example

If a decision maker issues a notice of intention to refuse to deal (NIRD), they add the 10 business days of the prescribed consultation period to the initial 25 business days, extending it to 35 business days. If the applicant rectifies their application and the decision maker consults with a third party, they will add another ten business days to the processing period, extending it to 45 business days.

The processing period does not stop until the agency makes a considered decision, or the application is deemed because the agency ran out of time. All of the time an agency spends working on an application is part of the processing period. This means that a Charges Estimate Notice (**CEN**) can be issued at any point before the processing period ends and an agency is always entitled to the various additional times if it takes certain actions, e.g., the agency will be entitled to the prescribed consultation period if it takes the action of issues a NIRD.

4.1 Business days

Timeframes in the RTI Act are calculated in business days. A business day is a day which is not a weekend or a holiday⁴ in the place where the agency is making their RTI decision.⁵ This can differ between agencies, e.g., they may have different public holiday show days.

If the agency is shut down on a day which is not a weekend or holiday, the day counts as a business day. This includes unplanned closures, for example due to

³ Sections 110A and 110B of the RTI Act.

⁴ Declared under the *Holidays Act 1983*: a special, bank or public holiday.

⁵ Schedule 1 of the *Acts Interpretation Act 1954*.

extreme weather events, and planned closures, such as days other than public holidays over the Christmas/New Year shut down.

A business day ends at midnight, but agencies should allow at least a few minutes for an email to be delivered if it needs to be received by midnight.

4.2 Extending the processing period

The actions that extend the processing period are set out in the table in section 18. They are:

- **Postal address only:** the processing period is extended by five business days if the applicant only provides a postal address by the valid application day. The agency is entitled to those five business days even if the applicant later provides, for example, an email address. Once the application is compliant with only a postal address, the five business days are locked in.
- **Issuing a NIRD:** the processing period is extended by the prescribed consultation period, which cannot be less (but can with agreement be more) than ten business days.
- **Transferring an application:** the processing period is extended by 10 business days or the actual number of business days it takes to transfer, whichever is shorter.
- **Issuing a CEN:** the processing period is extended by the number of business days between the date the CEN was issued and either the day the applicant confirms the original or narrowed application or the day the agency gives the applicant a decision to waive the charges.
- **Consultation:** the processing period is extended by 10 business days if the agency seeks the views of a concerned third party.
- **Requesting a further specified period:** the processing period is extended by the number of business days requested.

Refer to the *Refuse to deal – beyond the resources*, *Transferring an application*, *Consulting with a relevant third party*, and *Charges Estimate Notices* (guidelines under review) for more information on those time periods.

5.0 Requesting extra time – the further specified period

At any time before the end of the processing period, the decision maker can ask the applicant for more time to work on the application. This is the *further specified period*. There is no limit on the length of a further specified period or how many an agency can request.

Agencies should consider requesting extensions in business days. This allows those business days to simply be added to the processing period, and makes calculation of the total as simple as possible.

The applicant does not need to agree to the request. Asking for a further specified period extends the processing period by the length of the further specified period *unless* the applicant brings it to an end.

5.1 *Ending the further specified period*

The applicant can bring the further specified period to an end by refusing an extension or applying for external review.

If the applicant refuses an extension request, the processing period ends when the agency receives the refusal. The applicant can refuse the request at any time, even if they previously agreed to it.

The applicant can also end the further specified period by applying for external review under section 86A if the processing period has been extended by a further specified period and the agency is relying on this further specified period.

If this occurs, section 86A(3) provides that the agency's principal officer or Minister is taken to have made a deemed decision as if the further specified period had never been requested, ie on the last day of the processing period minus the further specified period.

Example

If the processing period was 80 business days, and the agency asked for a further specified period of 30 business days, the applicant could not apply for external review on day 75 of the processing period, because the agency was not yet relying on the extra days from further specified period.

The applicant could, however, apply for external review on day 85 of the processing period. As a result of section 86A(3) the deemed decision would be taken to have been made on day 80 of the processing period.

Notice of the deemed decision does not need to be given to an applicant who has already applied for external review under section 86A, but any application fee must be refunded.

For additional IPOLA assistance, please contact the IPOLA team by email 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