



Information disclosure policy and principles

August 2011

© Government of Tasmania 2011

This work is copyright. Apart from use as permitted under the Copyright Act, no part may be reproduced by any process without the written permission of the Department of Treasury and Finance, Tasmania.

Published by the Department of Treasury and Finance

GPO Box 147

HOBART TAS 7001

TRIM Reference: 10/162934[V3]

Contents

Policy intent	4
Legislative obligations.....	4
Scope	4
Definitions	5
Policy statement	8
Object of the <i>Right to Information Act 2009</i>	8
Classes of information	8
Principles for the disclosure of information	10
General principles.....	10
<i>Responsibilities of authorised officers</i>	10
Four specific methods of disclosure under the <i>Right to Information Act 2009</i>	11
<i>Required disclosure</i>	11
<i>Routine disclosure</i>	11
<i>Active disclosure</i>	12
<i>Assessed disclosure</i>	13
Applications.....	14
Legislative framework and related documents	15
Contact us	15

Policy intent

In accordance with section 23 of the *Right to Information Act 2009*, this document has been developed to outline the policy and principles that will be followed by all officers within the Department of Treasury and Finance to ensure a consistent and sound approach in relation to the disclosure of information for use within the agency.

Legislative obligations

Several provisions of the Act impose specific obligations on the principal officer of a public authority in relation to the disclosure of information, including:

- Section 12(3)(a) - requires the principal officer to implement adequate processes in the public authority to ensure that there is appropriate active disclosure, routine disclosure or required disclosure by the public authority.
- Section 12(3)(b) - requires the principal officer to ensure that the processes referred to above comply with guidelines issued by the Ombudsman under section 49 of the Act.
- Section 23(1)(a) - requires the principal officer to develop policies and procedures in relation to the disclosure of information, for use in the public authority.
- Section 23(1)(b) - requires the principal officer to publish details of these policies and procedures, and of the RTI Act and the way in which people can exercise their rights under the Act in respect of the public authority.

Scope

The Department of Treasury and Finance holds information for and on behalf of the State of Tasmania in order to perform its functions and those of its Minister/s. This document and its attachment have been prepared in accordance with section 23 of the Act and Ombudsman's Guideline 3/2010 and is to be used within the public authority to direct the disclosure of this information held by the Department of Treasury and Finance.

The policy and principles apply to all officers of the Department of Treasury and Finance, and where applicable, any consultants or contractors.

The policy and principles address the four types of information disclosure identified in section 12(2) of the Act:

- required disclosure;
- routine disclosure;
- active disclosure; and
- assessed disclosure.

Definitions

The following definitions are consistent with those set out in the interpretation section of the *Right to Information Act 2009*.

Term	Definition
active disclosure	a disclosure of information by a public authority or a Minister in response to a request from a person made otherwise than under Division 2 of Part 2 of the <i>Right to Information Act 2009</i>
assessed disclosure	a disclosure of information by a public authority or a Minister in response to an application in accordance with section 13 of the <i>Right to Information Act 2009</i> .
authorised officer *	a member of staff of a public authority, authorised to make decisions regarding each type of disclosure (see Table 1).
delegated officer	a person specified in an instrument of delegation in accordance with section 24 of the <i>Right to Information Act 2009</i> .
exempt information	information which is exempt information by virtue of a provision of Part 3 of the <i>Right to Information Act 2009</i> .
information	(a) anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording and photograph; and (b) anything in which information is embodied so as to be capable of being reproduced.
information in the possession of a Minister	information in the possession of a Minister that relates to the official business of the Minister, but does not include information which is in the possession of the Minister for the sole purpose of collation and forwarding to a body other than a public authority.
information in the possession of a public authority	information in the possession of a public authority that relates to the official business of the authority, but does not include information which is in the possession of the public authority for the sole purpose of collation and forwarding to a body other than another public authority.
information owner *	manager of the Branch or unit responsible for development, preparation and / or publication of the information and for keeping the information updated.
officer	in relation to a public authority, includes a member of the public authority, a member of the staff of the public authority and any person employed by or for the public authority, whether or not that person is a State Service officer or State Service employee.

Term	Definition
Ombudsman	the Ombudsman appointed under the <i>Ombudsman Act 1978</i> .
personal information	any information or opinion in any recorded format about an individual – <ul style="list-style-type: none"> (a) whose identity is apparent or is reasonably ascertainable from the information or opinion; and (b) who is alive, or has not been dead for more than 25 years.
principal officer	<ul style="list-style-type: none"> (a) in relation to an Agency, within the meaning of the <i>State Service Act 2000</i>, the Head of Agency; or (b) in relation to the Police Service, the Commissioner of Police; or (c) in relation to a council, the general manager of that council; or (d) the chief executive of a State-owned company or council-owned company; or (e) the chief executive officer of a Government Business Enterprise; or (f) in the case of any other public authority, the principal administrative officer of the public authority.
public authority	<ul style="list-style-type: none"> (a) an Agency, within the meaning of the <i>State Service Act 2000</i>; or (b) the Police Service; or (c) a council; or (d) a statutory authority; or (e) a body, whether corporate or unincorporate, that is established by or under an Act for a public purpose; or (f) a body whose members, or a majority of whose members, are appointed by the Governor or a Minister of the Crown; or (g) a Government Business Enterprise within the meaning of the <i>Government Business Enterprises Act 1995</i>; or (h) a council-owned company; or (i) a State-owned company.
required disclosure	disclosure of information by a public authority where the information is required to be published by this or any other Act, or where disclosure is otherwise required by law or enforceable under an agreement.

Term	Definition
responsible Minister	<p>(a) in relation to an Agency, within the meaning of the <i>State Service Act 2000</i>, the Minister responsible for the administration of the Agency; or</p> <p>(b) in relation to another public authority, the Minister administering the Act by which the public authority was established.</p>
routine disclosure	<p>a disclosure of information by a public authority which the public authority decides may be of interest to the public, but which is not a required disclosure, an assessed disclosure or an active disclosure.</p>

* The terms “authorised officer” and “information officer” are defined within the context of the Department of Treasury and Finance and are not identified as a specific term within the *Right to Information Act 2009*.

Policy statement

Officers of the Department of Treasury and Finance make determinations in relation to the disclosure of information held by this public authority which are consistent with the objects and provisions of the *Right to Information Act 2009* and with any manual or guidelines issued and updated periodically by the Ombudsman.

Object of the *Right to Information Act 2009*

Section 3 outlines the object of the Act:

- (1) *The object of this Act is to improve democratic government in Tasmania —*
 - (a) *by increasing the accountability of the executive to the people of Tasmania; and*
 - (b) *by increasing the ability of the people of Tasmania to participate in their governance; and*
 - (c) *by acknowledging that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.*
- (2) *This object is to be pursued by giving members of the public the right to obtain information held by public authorities and Ministers.*
- (3) *This object is also to be pursued by giving members of the public the right to obtain information about the operations of Government.*
- (4) *It is the intention of Parliament -*
 - (a) *that this Act be interpreted so as to further the object set out in subsection (1); and*
 - (b) *that discretions conferred by this Act be exercised so as to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information.*

Classes of information

A large part of the foundation upon which this policy and procedure document has been developed is the determination of the information owner of specific information. The information owner is the manager of the Branch or unit responsible for the development, preparation and / or publication of the information and for keeping the information updated. It is the responsibility of the information owner to keep the information up to date, as per the agreed schedule of release.

Within this document, the officers authorised to make decisions regarding each type of disclosure are outlined as per the following summary table.

Table 1: Classes of information and authorised officers

Disclosure type	Officer(s) authorised to disclose information
Required	Secretary or officer allocated responsibility for the administration of the relevant Act by the Secretary
Routine	Information owner
Active	Information owner, except under the following circumstances where the information is: <ul style="list-style-type: none">• being sought by the media;• being sought by Members of Parliament; and / or• potentially contentious; whereby the decision should be forwarded to the respective Division Head of the information owner.
Assessed	Principal Officer and Delegated Right to Information Officers

Principles for the disclosure of information

The following principles have been developed to form a framework for consistent decision-making in relation to the disclosure of information held by the Department of Treasury and Finance and the appropriate processes by which to make this information available.

General principles

- (a) Officers of the Department of Treasury and Finance will make information it holds publicly available when it is in the public interest to do so and not subject to an exemption set out in the *Right to Information Act 2009*.
- (b) Decisions regarding the disclosure of information will only be made by authorised officers as per Table I.
- (c) Certain information held by the Department of Treasury and Finance will not be released should it be deemed:
 - information that by its nature is exempt from release under the *Right to Information Act 2009*;
 - information which is not exempt by its nature but is not in the public interest to release; or
 - information that is prevented by other laws or agreements from being released.
- (d) Applications for personal information will be responded to in accordance with the *Personal Information Protection Act 2004*. Unless there are exceptional circumstances, applicants will be given full access to their personal information.
- (e) Fees may apply for processing requests for information, either in accordance with the application fee set out in section 16 of the *Right to Information Act 2009*, or under other fee arrangements where relevant.
- (f) All requests for information will be addressed in a timely manner, taking into account the time required to assess the application and the need to consult including redefining or redirecting the application upon negotiation with the applicant.

Responsibilities of authorised officers

In accordance with the Ombudsman Guideline 3/2010, in deciding what information is significant, authorised officers will take into account the object of the Act as well as considering the following factors:

- what information may be material to the community;
- what information key stakeholders and the community might reasonably expect to be able to access;
- the extent of public demand for the information;
- how useful the information would be to the public in dealing with the authority;
- whether publication would improve the public's ability to contribute to the work of the authority, or to decision-making by the authority;
- whether publication would promote greater accountability by the authority, for example by showing the basis of its decisions; and

- whether the information promotes community wellbeing;

Other questions relevant to a decision regarding the disclosure of information include:

- Does the information tell the public what we do, how we do it or how we spend public money?
- Is the information about significant aspect of the Department's work - major projects, key initiatives or policy documents?
- Is release lawful – having regard to the *Right to Information Act 2009* and other legislation?
- Is the release appropriate – having regard to issues such as privacy principles, defamation, third party and security issues?
- Is the information accurate?
- What is the cost and time involved in producing the information?
- Is the information otherwise exempt – having regard to Part 3 of the *Right to Information Act 2009*?

Four specific methods of disclosure under the *Right to Information Act 2009*

Required disclosure

The *Right to Information Act 2009* defines required disclosure as the disclosure of information by a public authority where the information is required to be published by legislation, or where disclosure is otherwise required by law or enforceable under an agreement.

Examples of information that falls under required disclosure include agency Annual Reports including financial statements (required under the *Financial Management and Audit Act 1990*) or agency progress towards achieving Tasmania *Together* goals and benchmarks (*Tasmania Together Progress Board Act 2001*).

Relevant Branches and/or Divisions within the Department of Treasury and Finance are assigned responsibility for the administration of specific Acts for which the Treasurer is responsible. As instructed, authorised officers will disclose the required information in accordance with legislative requirements under these Acts.

A full list of legislation administered by the Department of Treasury and Finance can be viewed by visiting the *About Us – Treasury's Legislative Responsibilities* section of the website at <http://www.treasury.tas.gov.au>.

Routine disclosure

Under the *Right to Information Act 2009*, routine disclosure is defined as the disclosure of information by a public authority which it decides may be of interest to the public, but where the disclosure is not one of the other three types of disclosure.

All Branches and Divisions of the Department of Treasury and Finance will regularly review information it holds or is gathering and make a decision as to whether it should be routinely disclosed. Identification of potential suitable sources of information for routine disclosure can be made by any information owner within the Department.

To ensure consistency of application of the legislation across the Department and to facilitate a consolidated knowledge/understanding of what is being published routinely,

information owners will seek approval from their respective Division Head prior to publishing any new routine information.

Information that is being released by way of routine disclosure will generally be available online (via the Department of Treasury and Finance's website) at no cost. Where specific members of the public cannot access the information online, the Department of Treasury and Finance will provide an alternative and reasonable means of access, which satisfies the person's right to access the information. If a person chooses a more costly method of accessing the information, they may be required to pay for accessing the information by that method.

Active disclosure

Active disclosure is defined in the *Right to Information Act 2009* as the disclosure of information by a public authority or a Minister in response to a request from a person made outside the provisions of the Act and not an assessed disclosure. In general, this is the voluntary release of information on receipt of a request under section 13 of the Act.

The officers authorised to make a decision to actively disclose information are generally the information owners. The authorised officer is to escalate the request in the instances where:

- the information is being sought by the media;
- the information is being sought by Members of Parliament; or
- the information is potentially contentious.

Requests of this nature will be immediately directed to the respective Division Head and the Secretariat to determine the method of response.

If an authorised officer determines that some or all of the information held by the Department of Treasury and Finance should not be actively disclosed, the officer will tell the person making the request and explain their rights in respect of assessed disclosure under the *Right to Information Act 2009*.

All decisions should be made taking into account the need for a timely response and the object of the *Right to Information Act 2009* to favour disclosure of information wherever possible.

Information that is being released by way of active disclosure will generally be available at no cost, however the information owner may charge a fee for the provision of the information if:

- the information is to be used for financial gain; or
- additional cost is involved in responding to the request (eg the information needs to be transcribed; or providing the information in the form requested is more costly than currently available form).

Charges must be based on the Costing Fees and Charges Guidelines for Use by Agencies established by the Department of Treasury and Finance and available on the *Budget and Financial – Budget Guidelines – Costing Fees and Charges – Guidelines for Use by Agencies* section of the Department of Treasury and Finance website at <http://www.treasury.tas.gov.au>.

Assessed disclosure

Assessed disclosure is a formal application for information under section 13 of the *Right to Information Act 2009* that will only be applied following consideration of required, routine and active disclosure methods.

Officers authorised to make a decision on an application for assessed disclosure are the principal officer and officers formally delegated functions under section 24 of the Act. The provisions of section 24 require that all delegated officers have the knowledge and skills to undertake the task of assessing applications. All Delegated Right to Information Officers within the Department of Treasury and Finance are required to undergo formal training to ensure a sound understanding of the Act and the Ombudsman's manual and guidelines. As Principal Right to Information Officer, the Secretary has delegated his decision-making power to a limited number of officers within the Department of Treasury and Finance.

The process and requirements for assessing an application for assessed disclosure is outlined in the legislation and in the Manual and Guidelines published by the Ombudsman. The Manual also includes fundamental considerations in working with the Act, refusing applications, dealing with third parties, the public interest test and exemptions and statements of reasons.

All requests for information that require assessed disclosure will be addressed in a timely manner and in accordance with section 15 of the *Right to Information Act 2009*.

Where an authorised officer responding to an application for assessed disclosure determines that the information is exempt under the *Right to Information Act 2009*, the applicant will be provided with a written notice of the decision under section 22, which includes the reasons for the decision and an explanation of the right to seek a review of the assessed decision.

An application for assessed disclosure may be transferred in full or part to another public authority or Minister under section 14 of the *Right to Information Act 2009*, where the subject matter of the application is more closely connected with the functions of another public authority or Minister.

Applications

Applications under the *Right to Information Act 2009* for information owned by the Department of Treasury and Finance are to be addressed to:

Principal Right to Information Officer
Department of Treasury and Finance
GPO Box 147
Hobart TAS 7001

Or email: secretary@treasury.tas.gov.au

An application form to assist in making a request for information is available on the *About Us – Right to Information* section of the Department of Treasury and Finance website at <http://www.treasury.tas.gov.au>.

All applications must be accompanied by the application fee as per section 16 of the *Right to Information Act 2009*. The fee is indexed annually and calculated as 25 fee units.

The fee may be waived by a Delegated Right to Information Officer if the applicant is:

- in financial hardship;
- a member of parliament and the application is in connection with their official duty; or
- able to show that the information sought is intended to be used for a purpose that is of general public interest or benefit.

Requests for an applicant's personal information will initially be considered under the *Personal Information Protection Act 2004*. Requests must be in writing and be accompanied by an appropriate proof of identity at the time of submitting a request. Appropriate forms of identity include:

- photo identification; or
- a copy of photo identification which has been certified as a true copy by a Justice of the Peace or a Commissioner for Declarations.

It is not advisable for original identification to be sent through the post.

Legislative framework and related documents

Disclosure of information is governed primarily by the *Right to Information Act 2009*, however the following legislation and related documents are also relevant in application of the Act:

- *Right to Information Regulations 2010*;
- *Personal Information Protection Act 2004*;
- *State Service Act 2000*;
- *Archives Act 1983*;
- Manuals and Guidelines issued by the Ombudsman;
- Tasmanian Government Communications Policy; and
- Tasmanian Government Web Publishing Framework.

Contact us

For further information on this policy or principles relating to the disclosure of information, contact the Office of the Secretary on (03) 6233 2071 or email secretary@treasury.tas.gov.au.



Tasmania
Explore the possibilities

Department of Treasury and Finance

21 Murray Street
HOBART TAS 7000

GPO Box 147
HOBART TAS 7001

Telephone: (03) 6233 3100
Facsimile: (03) 6223 2755

Email: secretary@treasury.tas.gov.au
www.treasury.tas.gov.au