

Information Act 2002 Guideline

Special rules – FOI



February 2021

Publicly available information

The FOI scheme under the provisions of the *Information Act 2002* does not apply to a number of categories of publicly available information, including:

- publications available to the public (even if there is a charge);
- material made available to the public for reference purposes;
- public registers;
- archives that are publicly available;
- materials in collections of libraries, art galleries and museums that are on public display or publicly available for reference or study purposes (s12).

Old information (pre-July 1993)

The FOI scheme applies to personal information about an individual whenever it was created or received.

The scheme only applies to non-personal information created or received before July 1993 if -

- the information is reasonably necessary to enable a person to properly understand information to which the person has been provided with access under the Act; or
- the Information Commissioner has decided (on application) that the information falls within a class of information in respect of which competing interests are likely to be balanced in favour of disclosure (s13).

Personal information only

For a Government Owned Corporation (GOC), as defined under the *Government Owned Corporations Act 2001*, or a Government Business Division (GBD), the FOI access scheme only applies to “personal information”.

Government Owned Corporations currently listed in the *Appendix to Budget Paper No.2* are:

- Jacana Energy
- Power and Water Corporation
- Territory Generation

Government Business Divisions currently listed in the *Appendix to Budget Paper No.2* are:

- Central Australia Health Service
- Data Centre Services
- NT Fleet
- NT Home Ownership
- Territory Wildlife Parks
- Top End Health Service
- Land Development Corporation
- NT Treasury Corporation

You can apply to a GOC or a GBD to access or correct personal information about you, or to complain that one of them has interfered with your privacy, but you cannot apply to them for access to non-personal information they hold.

Courts and tribunals

The *Information Act 2002* does not apply to:

- a court in relation to its judicial functions;
- a tribunal in relation to its decision-making functions;
- a coroner in relation to an inquest or inquiry;
- a judge in relation to a preliminary examination (s5(5)).

The exclusion limits the application of the Act in relation to information held by the particular body or officer concerned, e.g. a court. It does not exclude from the application of the Act information held by another public sector organisation even if it was created by, or relates to a relevant body or officer. So, for example, if a department is a party to court proceedings, the information it holds relating to the proceedings (including any court documents held) will be subject to the Act. [*Re Member of the Legislative Assembly and Queensland Corrective Services Commission* [1997] QICmr 12 (25 July 1997); (1997) 4 QAR 100, para 12.]

This guideline is produced by the Information Commissioner to promote awareness and understanding about the *Information Act 2002*. It is not a substitute for the Act. You should read the relevant provisions of the Act to see how it applies in any particular case.

Any views expressed in this guideline about how the Act works are preliminary only. In every case, the Commissioner is open to argument by a member of the public or a public sector organisation that a different view should be taken.