Right to Information Policy

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# Purpose

The purpose of this policy is to establish a framework for the disclosure of information by the DoJ to members of the public and others in accordance with the Right to Information Act 2009.

# Policy Statement

The DoJ will disclose information that it holds in accordance with the principles in the Right to Information Act 2009 (the Act).

This includes ensuring that the DoJ has adequate processes and procedures in place to ensure that there is appropriate active, routine and required disclosure of information and that assessed disclosure of information is used as a method of last resort only.

Under s 23 of the Act, the DoJ has an obligation to:

* develop policies and procedures in relation to the disclosure of information; and
* publish details of the Act and the way in which people can exercise their rights under it.

# Scope

This policy applies to all DoJ employees and officers. In certain circumstances, the policy may also apply to information held by third parties engaged by the DoJ such as contractors and consultants.

This policy covers the four types of information disclosure identified in the Act:

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

This policy applies to public authorities for which the DoJ has administrative responsibility, but are classified as being separate to the DoJ for the purpose of the Act.

This policy does not apply to requests for personal information by an individual to whom the personal information relates. Such requests should be dealt with under the Personal Information Protection Act 2004 in the first instance.

# Legislation and Documents

* Personal Information Protection Act 2004
* Right to Information Act 2009 and associated regulations
* Ombudsman Tasmania’s Right to Information Manual
* Ombudsman Tasmania’s Guideline 2/2010 – Refusal of an application for assessed disclosure
* Ombudsman Tasmania’s Guideline 3/2010 – Process for disclosing information
* Ombudsman Tasmania’s Guideline 4/2010 – Searching and locating information
* Ombudsman Tasmania’s Guideline 1/2012 – Charges for information
* Ombudsman Tasmania’s Guideline 1/2013 – Distinguishing between information and a document

# Definitions

**Act** means the Right to Information Act 2009.

**Active disclosure** means 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 – i.e. the voluntary release of information on receipt of a request without the need for an application for assessed disclosure.

**Assessed disclosure** means a disclosure of information by a public authority or a Minister in response to an application in accordance with section 13. Assessed disclosure is the method of last resort.

**Delegated officer** means an officer delegated by the principle officer under s 24 of the Act to exercise any of the principle officer’s functions or duties.

**Exempt information** means exempt from disclosure under the Act – i.e. subject to one or more of the exemptions in Part 3 of the Act.

**Information** means:

1. anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording and photograph; and
2. anything in which information is embodied so as to be capable of being reproduced;

**Principal officer** means the Secretary of the DoJ.

**Public authority** means:

1. a statutory authority; or
2. a body, whether corporate or unincorporate, that is established by or under an Act for a public purpose; or
3. a body whose members, or a majority of whose members, are appointed by the Governor or a Minister of the Crown;

**Required disclosure** means a 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.

**Routine disclosure** means 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.

# Responsibilities

**Employees**

All employees are responsible and accountable for:

* keeping records of all official information produced, received or acquired;
* making records to support the work they are undertaking; and
* registering documents in DoJ records management systems as appropriate.

Employees asked to identify information responsive to an application for assessed disclosure by a delegated officer are responsible for:

* identifying all relevant information;
* recording steps taken during the search for information; and
* recording details of information which is no longer in the possession of the DoJ or which has been destroyed or is missing.

**Principal officer**

The principal officer is responsible for:

* developing policies and procedures in relation to disclosure of information for use in the public authority; and
* publishing details of this Act and the way in which people can exercise their rights under it in respect of the public authority; and
* annually publishing details on information published as required disclosures or routine disclosures by the DoJ; and
* annually publishing details on information released as assessed disclosures.

**Principal officer/delegate officers (applications for assessed disclosure)**

The principal officer and delegate officers are responsible for:

* providing an applicant with reasonable assistance to make a valid application in the event that it does not comply with the requirements of s 13 of the Act;
* negotiating with an applicant where appropriate to refine or redirect the application;
* negotiating with the applicant, where appropriate for additional time to determine the application;
* ensuring that, where appropriate, applications are promptly transferred where the subject matter of the information requested is more closely connected with the functions of another public authority;
* ensuring that proper guidance is given to employees conducting searches for information responsive to an application;
* determining applications for assessed disclosure consistent with provisions of the Act;
* undertaking internal reviews of decisions on application for assessed disclosure consistent with provisions of the Act; and
* liaising with the Ombudsman on external reviews of decisions on applications for assessed disclosure.

**Output Managers**

Output managers are responsible for:

* determining information which should be released by way of active disclosure – i.e. the voluntary release of information on receipt of a request without the need for an application for assessed disclosure;
* identifying information for routine disclosure and obtaining approval from the DoJ executive for publication on the DoJ website;
* ensuring employees keep appropriate records of their activities; and
* liaising with the principal officer/delegate officer regarding the determination of applications for assessed disclosure.

# Procedures

The Department will apply the procedures development by the Ombudsman and published in its Manual and Guidelines in the course of discharging its obligations under the Right to Information Act 2009.

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