

# RIGHT TO INFORMATION DISCLOSURE GUIDELINES

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## 1 Background

The Department of Police, Fire and Emergency Management (DPFEM) delivers services to the community in four key areas – Tasmania Police, Forensic Science Service Tasmania (FSST), State Emergency Service (SES) and Tasmania Fire Service (TFS).

The *Right to Information Act 2009* (the Act) gives persons the right to obtain information contained in the records of the Tasmanian Government and public authorities.

Section 7 of the Act gives a person a legally enforceable right to be provided with information unless it is exempt information. DPFEM will make information in its possession available when it is relevant and appropriate, not contrary to the public interest, not subject to an exemption set out in the Act or otherwise exempt by other laws.

DPFEM members involved in the release of information will make decisions which are consistent with the Act and the manual and guidelines issued by the Ombudsman. The [Ombudsman Guideline 3/2010](#) relates to the process of disclosing information under the four types of information disclosure referred to in section 12 of the Act. The purpose of the [Ombudsman's Manual](#) is to assist all users of the Act to better understand and apply it.

## 2 Objective

To provide clarity on how DPFEM assesses and discloses information as required by the Act.

## 3 Values

The *Right to Information Disclosure Guidelines* (the Guidelines) promote DPFEM's values of:

- Integrity: We value integrity because we believe in honest, professional, transparent and ethical behaviour in all aspects of our business
  - Equity: We value equity because we believe in fair, consistent and inclusive behaviour when interacting with our people and our community
  - Accountability: We value accountability because we believe in being answerable for our decisions and actions, behaving professionally and being responsible for our outcomes
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## 4 Key Definitions

<b>Must:</b>	Indicates a mandatory action
<b>Should:</b>	Indicates a recommended action to be followed unless there are sound reasons for taking a different course of action
<b>Delegated Officer:</b>	Officers delegated under section 24 of the Act to make a decision on an application for assessed disclosure
<b>Members:</b>	For the purpose of these Guidelines, 'members' refers to DPFEM: <ul style="list-style-type: none"> <li>○ state service employees</li> <li>○ police officers</li> <li>○ career fire fighters</li> <li>○ volunteers</li> <li>○ contractors</li> <li>○ students and any other person conducting business for DPFEM</li> </ul>
<b>Required Disclosure</b>	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
<b>Routine Disclosure</b>	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
<b>Active Disclosure</b>	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 of the Act (assessed disclosure)
<b>Assessed Disclosure</b>	Means a disclosure of information by a public authority or a Minister in response to an application in accordance with section 13 of the Act

<b>Personal Information</b>	Any information or opinion in any recorded format about an individual: <ul style="list-style-type: none"><li>○ whose identity is apparent or is reasonably ascertainable from the information or opinion</li><li>○ who is alive, or has not been dead for more than 25 years</li></ul>
<b>Principal Officer</b>	The Secretary/Commissioner of Police is the principal officer for DPFEM

## 5 Procedures

DPFEM, a public authority as defined by the Act, discloses information under four categories identified at section 12(2) of the Act:

- required disclosure
- routine disclosure
- active disclosure
- assessed disclosure

DPFEM should be proactive in making official information readily available through routine and active disclosures to reduce the need for assessed disclosure, which is the method of last resort pursuant to section 12 of the Act.

Where possible, routine disclosures should be available online. If a person cannot access the information online, DPFEM will provide the information through a suitable alternative. A person may be required to pay for costs incurred by DPFEM to provide the information through an alternative method. However, there should be no charge in instances where disability is the reason for inability to access the information.

Disclosures are made in accordance with the Act and, if in the public interest to do so, may also be published on the Disclosure Log on the DPFEM website. Relevant provisions of the Act will be applied to all applications to determine whether it is lawful to disclose or exempt information.

In accordance with the Act, some DPFEM information may be exempt for reasons including, but not limited to:

- information relating to enforcement of the law (e.g. methods, procedures, intelligence)
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- information communicated by other jurisdictions (e.g. information provided by interstate, commonwealth or international law enforcement agencies)
- internal deliberative information (e.g. members' opinions, recommendations and consultations relating to official business)
- personal information of a person (e.g. information of a third party)
- information obtained in confidence (e.g. information provided by an informant)

### *5.1 Required Disclosure*

Some legislation requires that specific information is made available (e.g. publishing annual reports; provision of information to Child Safety Services).

Generally, individuals are entitled to access their own personal information.

Some required disclosures (e.g. annual reports) will also be made available on the [DPFEM website](#).

Relevant business areas are responsible for ensuring appropriate approval is obtained prior to publishing information that is required to be disclosed.

### *5.2 Routine Disclosure*

Section 6 of [Guideline No 3/2010](#) issued by the Ombudsman provides a decision making framework for routine disclosures.

Some routine disclosures (e.g. media releases) will be made available on the [DPFEM website](#).

Routine information includes media releases, advertisements and other general publications.

Media and Communications is responsible for online publishing of routine information and seeking appropriate approvals.

Information custodians must seek appropriate approval prior to routine information being disclosed and are responsible for updating the information.

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### 5.3 *Active Disclosure*

This type of information is publically available, can be informally released on request and can be provided orally or in writing according to DPFEM practices.

Active disclosures include responses to queries made by members of the public and responses to journalists during media interviews.

The public release of information is subject to DPFEM clearance processes. General enquiries are dealt with through standard operating procedures. Complex requests for information may need to be dealt with in writing and may require appropriate approval.

All decisions should be made taking into account the need for a timely response and the objective of the Act to favour active disclosure of information where possible.

### 5.4 *Assessed Disclosure*

Assessed disclosure is the method of last resort pursuant to section 12 of the Act.

Pursuant to section 9 of the Act, information will only be disclosed as an assessed disclosure if it is not otherwise available to the applicant.

Delegated officers have responsibility for assessed disclosures on behalf of the principal officer.

The process for assessing an application for assessed disclosure is outlined in the Act, and in the Manual and Guidelines published by the Ombudsman.

All applications will be dealt with in a timely manner, taking into consideration the time required to assess the application and the need to consult with the applicant or third parties, which may include re-defining or transferring the application. Legislated timeframes for finalising assessed disclosures are set out in the Act.

Upon receipt of an application for assessed disclosure, the delegated officer will, unless the information is readily available on DPFEM information systems, liaise with the information custodian/s and the business area/s responsible for the management of the information.

All information, whether potentially exempt or not, must be provided to the delegated officer for assessment purposes.

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Section 50(2) of the Act provides that it is an offence to deliberately fail to disclose information which is the subject of an application for assessed disclosure. Examples of offences would therefore include:

- A member or business area deliberately failing to provide relevant information to the delegated officer for assessment purposes
- A delegate deliberately failing to assess relevant information for disclosure

The delegated officer responding to an application for assessed disclosure must provide the applicant with a written decision that explains:

- the information in DPFEM's possession (unless a decision is made to neither confirm nor deny existence of the information pursuant to section 22(4) of the Act)
- whether or not the information is released
- the reasons for any exemptions
- the applicant's right to seek a review of the delegate's assessment

Review provisions are contained in Part 4 of the Act. To request an internal review of a decision made by a delegated officer, the applicant must apply to the principal officer within 20 working days. Upon receipt of an application for internal review, the principal officer will nominate an independent DPFEM delegate to complete the review.

Applicants may also seek an external review by the Ombudsman if, for example, they are not satisfied with the internal review.

A person making an application for assessed disclosure must make the application in writing pursuant to section 13 of the Act and section 4 of the *Right to Information Regulations 2010*.

Application for Assessed Disclosure forms, for all DPFEM information, are available at [www.police.tas.gov.au](http://www.police.tas.gov.au) > Information Disclosure > Right to Information.

Applications are to be accompanied by the application fee pursuant to section 16 of the Act. This fee is 25 fee units which is \$38.25 (effective 1 July 2016).

The applicant may apply to have the fee waived if he/she is:



- in financial hardship and can provide evidence of income support payments
- a member of parliament and the application is in connection with official duty
- able to demonstrate that the information sought is intended to be used for a purpose that is of general public interest or benefit.

### **Contact details**

Applications for assessed disclosure of all DPFEM information are to be directed to:

- Right to Information Services  
Department of Police, Fire and Emergency Management  
GPO Box 308  
HOBART TAS 7001

or via email:

- [rti@dpfem.tas.gov.au](mailto:rti@dpfem.tas.gov.au)

## **5.5 Disclosure Log**

DPFEM may publish information released, in response to an application for assessed disclosure, on the online Disclosure Log.

The Disclosure Log is accessible at [www.police.tas.gov.au](http://www.police.tas.gov.au) > Information Disclosure > Right to Information Disclosures > Disclosures > Disclosure Log.

Disclosure Logs make information, which has been released to an applicant, available to a wider audience and increases Government transparency and accountability.

Information published in Disclosure Logs will show:

- a summary of the request for information
  - the category of the applicant (i.e. Member of Parliament (MP), media representative, organisation, private individual)
  - the information released to the applicant
  - the date the information was published
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Deciding what information to release to an applicant, and what information to publish on the Disclosure Log, are separate decisions. The first decision has a legislative basis and the second is administrative only. Both decisions are made by the delegated officer who completes the assessment.

Disclosure Logs will not necessarily include all information that has been released to the applicant. Only information considered to be in the public interest will be published on the Disclosure Log. Personal information will not be published on Disclosure Logs.

In determining whether to publish information on the Disclosure Log, the guiding principle is that information is considered to be in the broader public interest if, for example:

- the application is received from a MP about a matter which is in the public interest
- the applicant seeks waiver of the application fee on the basis of general public interest or benefit.

In such cases, applicants should assume that the information may be disclosed on the Disclosure Log (as per advice on the DPFEM website).

DPFEM retains discretion not to publish (on the Disclosure Log) some or all of the information which has been released to an applicant. Factors to be considered include whether the:

- personal information of an individual would be apparent from the information
- business affairs of a third party would be revealed
- information has been redacted so significantly that it would be very difficult to discern its meaning
- information is so voluminous that it would not be practicable to publish

If the information disclosed to an applicant is later changed following an internal or external review, and the information was published on the Disclosure Log, the Disclosure Log may also require change to reflect the review decision.

Where it is decided to publish information on the Disclosure Log, it must be published within two working days of being disclosed to the applicant.

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Information will generally be removed from the Disclosure Log after 12 months.

## 6 Roles and Responsibilities

For DPFEM purposes, the Act's principal officer is the Secretary/Commissioner of Police.

In accordance with section 24 of the Act, the principal officer may delegate his/her functions to another member for a period not exceeding three years; provided he/she is satisfied the member has the skills and knowledge necessary to perform or exercise the functions or powers.

Delegated officers must be conversant with all provisions of the Act, the *Personal Information Protection Act 2004* and guidelines issued by the Ombudsman.

Right to Information Services, Strategy and Support, is responsible for assessing applications made for information held by all of DPFEM (i.e. Tasmania Police, TFS, FSST and SES).

Delegated officers are responsible for determining what information is fit for publication on Disclosure Logs.

Media and Communications is responsible for publishing information online including the Disclosure Log.

Business units are responsible for routine, required and active disclosures and for following relevant approval processes.

All members are responsible and accountable for:

- keeping records of all official information produced, received or acquired
- making records to support what they do
- registering documents in DPFEM's records management system

## 7 Risk Implications

There is a risk of breaching the Act if information is not assessed and disclosed as required.

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## 8 Communication Strategy

The Guidelines will be communicated to DPFEM members through the DPFEM intranet site.

The guidelines will be communicated to the public through the DPFEM internet site. If a person does not have access to the internet, the Guidelines will be provided in hardcopy upon request.

## 9 Legislation and Related Documents

### Legislation

- [Archives Act 1983](#)
- [Personal Information Protection Act 2004](#)
- [Right to Information Act 2009](#)
- [Right to Information Regulations 2010](#)
- [State Service Act 2000](#)
- [Youth Justice Act 1997](#)

### Related Documents

- [Right to Information Act 2009 S 49\(1\)\(A\) Guideline in Relation to Process of Disclosing Information Under Each Type of Information Disclosure](#)
  - [Right to Information Act 2009 S 49\(1\)\(B\) Guideline in Relation to Refusal of an Application for Assessed Disclosure under the Right to Information Act 2009, S 20](#)
  - [Right to Information Act 2009 Tasmania Ombudsman's Manual](#)
  - [DPFEM Personal Information Management Guidelines](#)
  - [Tasmania Police Manual](#)
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## 10 Document Information

### *General Information*

<b>HP Records Manager No.</b>	A15/192803	<b>Replaces document</b>	N/A
<b>Effective from</b>		<b>Review date</b>	
<b>Business Owner</b>	Right To Information Services, Strategy and Support		
<b>Applies to</b>	whole-of-DPFEM		
<b>Information Security Classification</b>	UNCLASSIFIED		

### *Approval*

	<b>Position</b>	<b>Division/Area</b>	<b>Date</b>
Prepared by	Sergeant	Right to Information Services, Strategy and Support	
	Senior Policy Officer	Policy Development and Research Services, Strategy and Support	
Supported by	Director	State Emergency Service	
	Director	Forensic Science Service Tasmania	
	Chief Officer	Tasmania Fire Service	
	Assistant Commissioner	Planning and Development, Tasmania Police	
Approved by	Secretary	DPFEM	

### *Revision History*

<b>Version</b>	<b>Approved By (Name)</b>	<b>Approved By (Title)</b>	<b>Amendment Notes</b>