



MANAGEMENT POLICY

Right to Information

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1 INTRODUCTION

As a statutory authority, LinkWater is bound by the provisions of the *Right to Information Act 2009* (Qld) (RTI). LinkWater supports the objects of the RTI by giving rights of access to information in LinkWater's possession or under LinkWater's control unless, on the balance, it is contrary to the public interest to give the access.

2 POLICY

2.1 Access application

Under section 24 of the RTI, a person who wishes to be given access to a document/s of LinkWater may apply for access to the document/s. Applications must:

- be in the approved form and be accompanied by the application fee;
- give sufficient information concerning the document(s) to enable the Right to Information Officer (RTI Officer) to identify the document(s); and
- state the address to which notices under the RTI may be sent to the applicant.

If the application is for access to a document containing personal information of the applicant, the applicant must provide with the application or within 10 business days after the making of the application:

- (a) evidence of identity of the applicant (as prescribed by regulation); and
- (b) if an agent is acting for the applicant – evidence of the agent's authorisation and evidence of identity of the agent.

If LinkWater decides that the application is outside the scope of the RTI because the document is a document to which the RTI does not apply then LinkWater will give written notice to the applicant of this decision within 10 business days of receiving the application.

If the application does not comply with all relevant application requirements then LinkWater will make reasonable efforts to contact the applicant within 15 business days after receipt of the application. LinkWater will give the applicant a reasonable opportunity to consult with a view to making an application in a form complying with all relevant application requirements. If after giving the applicant the above opportunity and LinkWater decides that the application still does not comply with all relevant application requirements

then LinkWater will within 10 business days after making the decision, give the applicant written notice of the decision.

If LinkWater determines that the application could have been made under the *Information Privacy Act 2009* (IP) because the application is for access for a document to the extent it contains the personal information of the applicant then LinkWater will within 15 business days after the application is received, inform the applicant that the application could have been made under the IP without any application fee or processing charge being payable.

2.2 Refusal to deal with application

Under the RTI (and subject to compliance with its provisions), LinkWater may refuse to deal with an application under certain circumstances.

For instance, if an access application is expressed to relate to all documents of a stated subject matter and LinkWater determines that all of the documents consist of exempt information as detailed within section 48 and Schedule 3 of the RTI, then LinkWater may refuse to deal with the application without having to identify any or all of the documents.

Another example is where LinkWater considers the work involved in dealing with the application would substantially and unreasonably divert the resources of LinkWater from LinkWater's use in the performance of its functions.

2.3 Timing of Decision

In the first instance, LinkWater is given 25 business days to make a decision (and give written notice of that decision) on whether access is to be given to documents(s) and if access is to be given – whether any charge must be paid before access is given. Further time is available to LinkWater under the RTI to make its decision if, for example, under:

- section 35 of the RTI, LinkWater asks the applicant for a further specified period of time and the criteria in that section are fulfilled; or
- section 36 of the RTI, an applicant narrows the scope of the applicant's access application after receipt of a charges estimate notice; or
- section 37 of the RTI, an application involves consultation with a relevant third party; or
- section 38 of the RTI, the application is transferred from another agency.

2.4 Charges

Prior to the expiration of the time available for LinkWater to make a decision regarding the access application, LinkWater will supply to the applicant a schedule of relevant documents (unless the applicant waives this requirement) and a charges estimate notice. Under section 36 of the RTI, the applicant is afforded the opportunity of narrowing the scope of the applicant's application. If the applicant narrows the scope of the applicant's application then LinkWater will give the applicant a new charges estimate notice.

Fees and charges are determined by a regulation made by Parliament.

2.5 Decision

After considering the application, LinkWater will –

- decide whether access is to be given to the document(s);
- if access is to be given – decide whether any charge must be paid before access is given; and
- give the applicant written notice of its decision.

If LinkWater has not given written notice of its decision within the specified time then LinkWater is deemed to have made a decision refusing access to the document(s).

2.6 Grounds on which access may be refused

Under the RTI, an application may be refused under certain circumstances.

LinkWater may refuse to give access to a document if the document is non-existent or unlocatable or access is available through alternative means under section 53 of the RTI.

LinkWater may refuse to give access to the extent a document(s) comprise exempt information. This exempt information is information Parliament has considered the disclosure of which would, on balance, be contrary to public interest. Schedule 3 of the RTI lists the information Parliament considers should be exempt. An example of exempt information is listed below:

- certain Cabinet and Executive Council information; or
- information subject to legal professional privilege; or
- information disclosure of which would found action for breach of confidence; or

- National or State security information.

LinkWater may refuse to give access to the extent the document(s) comprise information the disclosure of which would, on balance, be contrary to the public interest under section 49 of the RTI. In deciding whether disclosure will be contrary to the public interest, LinkWater will:

- identify and disregard any irrelevant factors, including the factors mentioned in schedule 4, part 1 of the RTI;
- identify any factor favouring disclosure, including any factor mentioned in schedule 4, part 2 of the RTI;
- identify any factor favouring nondisclosure, including any factor mentioned in schedule 4, part 3 or 4 of the RTI;
- balance any relevant factors favouring disclosure against any factors favouring nondisclosure and decide whether, on balance, disclosure of the information would be contrary to the public interest.

Unless, on balance, the disclosure of the information would be contrary to the public interest, LinkWater will allow access to the information subject to the RTI.

2.7 Decision maker

Section 30(2) of the RTI provides the CEO with the power to delegate the power to deal with the application to another officer of LinkWater, in this case the RTI Officer.

2.8 Notification of the decision

LinkWater will give written notice of its decision to the applicant in accordance with section 54 and 191 of the RTI.

2.9 Giving Access

LinkWater will give access in accordance with section 68 of the RTI which lists out a range of options in terms of access including inspection or providing a copy of the document(s).

In respect of time limits for access, the applicant may access the documents within 40 business days after the date of the decision to give the person access to the document or any additional period allowed by LinkWater.

2.10 Internal Review

If the applicant is unsatisfied with the decision made he/she may apply for an internal review. The internal review application must be made in writing within 20 business days of receipt after the date of the written notice of the decision. The internal review must be conducted within 20 business days by a person other than the RTI Officer who initially handled the matter and someone who is senior to the RTI Officer.

2.11 External Review

If the applicant is unsatisfied with the internal review, he/she may apply for an external review. The Information Commissioner is responsible for reviewing decisions under the RTI Act and conducts external reviews. Applications for external review must be made in writing within 20 business days of the written notice of the internal review decision.

The address to which those applications must be made are as follows:

Office of the Information Commissioner

Address: Level 4
300 Adelaide Street
Brisbane Qld 4000

Postal Address: PO Box 10143
Adelaide Street
Brisbane Qld 4000

There is no charge for an internal or external review.

3 RELATED POLICY AND PROCEDURES

- MGT-014 LinkWater Privacy Policy

4 RESPONSIBILITY

LinkWater's Chief Executive Officer (CEO) is currently responsible for the implementation of this procedure.

The CEO can delegate his power to a nominated RTI Officer.

The RTI Officer will be the first point of contact for RTI requests on behalf of the CEO.

5 RELATED LEGISLATION

- *Right to Information Act 2009.*
- *Information Privacy Act 2009.*