



Information Act: Third Party Consultation

Introduction Applicants may request access to records held by the Department of Treasury and Finance (DTF), which contain personal information about another individual, business or organisation. The *Information Act* (the Act) recognises that disclosure of personal information may interfere with another party's personal privacy (the third party) or result in a loss of confidentiality harmful to an organisation's business interests. Section 30 of the Act provides procedures for seeking the view of third parties when access to records containing their business or personal information is requested, before a decision to release the record is made. If a decision is made to release the information document and the third party is aggrieved, then they may make a complaint to the Information Commissioner.

Who is a third party? A third party may be defined as a person, a group of persons or an organisation other than the applicant. A third party can be an individual, sole proprietor, partnership, corporation, unincorporated association or organisation, non-profit group, trade union syndicate or trust that is potentially affected by disclosure of information about them to a requestor.

Third party notification DTF must advise any third parties (preferably in writing), that it is considering the release of information about them to a requestor. The advice to the third party must provide a clear description of the information that relates to them and include a copy of the proposed information to be released. It must also inform them of their rights to respond and outline why the information should not be released.

DTF must notify the third party as soon as practicable. "As soon as practicable" means giving notice as soon as possible after determining that a third party needs to be consulted. This assists DTF to respond to the request within the required timeframe.

If several third parties are involved, each party whose interests may be affected by disclosure of the information must be notified separately.

The third party does not have to be notified if the department is not releasing the information, if the requested information is readily available to the public, available for purchase by the public or will be published or released to the public within a relatively short timeframe following receipt of the

request.

The notification to the third party must not identify the applicant, unless the applicant has given express consent to make this disclosure.

Third party response

The third party has 30 days to respond to the notification, with either of the two options:

1. consent, preferably in writing, to the release of some or all of the information; or
2. reject the request to release information, preferably in writing, giving reasons why the release would be detrimental.

The third party is not compelled to reply to the notification, but a response assists DTF in determining whether to release the information. If a notification from the third party has not been received from 30 days after receipt of the notice, DTF may decide to provide access to the information.

The Act contains penalties concerning making false or misleading statements by the third party in response to DTF's notification.

Replying to the applicant

DTF must advise the applicant if third parties are consulted. The applicant should be advised that:

1. the requested record contains information where disclosure may affect the business interests or invade the personal privacy of a third party;
2. the third party is being given an opportunity to make representations respecting disclosure; and
3. a decision whether or not to give access to the requested record(s) will be made within 30 days after the day notice is given to the third party.

The notification to the applicant must not identify the third party, unless the third party has given express consent to make this disclosure.

Notifying the third party of decision

DTF must notify the third party, in writing of its decision to release information, within 30 days after the third party notification is given. DTF must inform them that access will be provided 30 days after notification of this decision.

If the third party has no objection to the release of the information, DTF will consider releasing the information when making the decision.

DTF may decide to provide access to the information even though:

1. the third party's views were unable to be obtained within 30 days after they received request and after all reasonable attempts were made to do so;
2. the third party expressed the view that DTF should not provide access to the information.

If DTF makes a decision to release some or all of the information contrary to the third party's agreement, the third party may make a complaint to the Information Commissioner about the decision within 30 days of receiving notice of the decision. If they decide to make a complaint, the information will not be released until the Information Commissioner has made a determination of the complaint.

Notifying the applicant of decision

DTF has an obligation to respond to the applicant, in writing, within 30 days after seeking the views of the third party.

DTF must inform the applicant of the decision to provide access to the information, including reasons for the decision.

Release of personal information

If DTF makes a decision to release some or all of the information, then the information can be released 30 days after the third party and applicant have been notified of the decision.

DTF must not give immediate access to any information because of the third party's right to request a review of the final decision by the Information Commissioner.

DTF must not give access to any information or part of information that is the subject of a review by the Information Commissioner, until the review is completed.

DTF must not release any information without first checking if an appeal has been lodged with the Information Commissioner.

Contact details

Information Policy Officer
Department of Treasury and Finance
GPO BOX 1974
DARWIN NT 0801
P: (08) 899 96800
F: (08) 899 96150
E: FOI.NTT@nt.gov.au
W: www.treasury.nt.gov.au/InformationAct