

DESBT Administrative Release Policy and Procedure

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1. Purpose

The DESBT (“department”) Administrative Release Policy and Procedure outlines the procedural and decision making steps for departmental staff when considering release of departmental information through administrative (non-legislative) means.

Administrative access refers to the release of information by means other than a formal access application under the *Right to Information Act 2009* (Qld) (RTI Act) or the *Information Privacy Act 2009* (Qld) (IP Act). Administrative release provides the community with a less complex and more efficient method of obtaining government information, other than by seeking access to documents by means of formal applications under the RTI or IP Acts.

A decision to release information administratively is discretionary and is based upon many of the same public interest principles in the RTI and IP Acts. The aim of administrative release is to maximise the flow of information to the public whilst protecting the rights of individuals and other third parties whose interests may be prejudiced by the release of certain information.

2. Policy

The RTI and IP Acts are founded on the principles of openness, transparency and accountability of government, which recognises that the public have a right of access to documents within the department’s possession or control. The Preamble of the RTI Act sets out that government information should be released administratively as a matter of course, unless there is a good reason not to do so. This is confirmed by section 19 of the RTI Act, which provides that government information may be accessed by alternative means other than through applications under the RTI Act, such as administrative access policies.

Administrative release complements other ways in which the department proactively discloses information. This includes information already published on the department’s website; the department’s publication scheme, which sets out the kinds of information the department routinely makes available; and the department’s disclosure log, which publishes documents that have been released to applicants in response to access applications under the RTI Act.

The department’s obligations under the Whole-of-Government Open Data Initiative recognises that data held by the Queensland Government is the property of the people of Queensland. Administrative release also supports Information Standard 33: *Information Access and Use* (IS33), which requires departments to provide government information to the public to the maximum extent possible.

3. Principles

The administrative release of departmental information must conform to the following principles:

1. In accordance with the RTI and IP Acts, the department will release documents administratively within its possession or under its control, as a matter of course, unless there is a good reason not to. Formal applications for access under the RTI or IP Acts, should only be necessary as a last resort if other access is not appropriate.
2. The department must provide government information to the public to the maximum extent possible, in accordance with Information Standard 33: *Information Access and Use* (IS33).
3. The Queensland Office of the Information Commissioner’s Guideline “Administrative Release of Information”, outlines that the routine administrative release of information is consistent with the pro-disclosure principles in the RTI Act, and will generally be appropriate where:
 - there are no adverse effects to the department or any third parties as a result of disclosing the information;
 - the release of the information will not concern any third parties; and
 - the information is of a kind that would be released if it was requested under the RTI Act, either generally or to particular applicants.
4. Proper consideration must be given to who is requesting the information in any assessment of whether it should be released.

5. The contents of the document must be examined and any information which should not be released by the department administratively must be identified and withheld from release.
6. The types of information that are generally suitable to be released administratively are outlined in **Appendix A**. A discussion of the types of information that are **not** suitable to be released administratively are set out in **Appendix B**. **Appendix C** sets out the initial considerations for assessing whether a request for documents is able to be appropriately dealt with administratively. **Appendix D** sets out the procedure to follow when making a decision and finalising a request for the administrative release of documents.
7. If a document is unable to be released in full as parts of the document contain information that should not be released administratively, the document will generally **not** be suitable for release under administrative release. Access to the documents should be requested by application under the RTI or IP Act.
8. If there is any uncertainty about whether or not a document should be released administratively, advice must be sought from Right to Information Services.

4. Authority

- *Right to Information Act 2009* (Qld);
- *Right to Information Regulation 2009* (Qld);
- *Information Privacy Act 2009* (Qld);
- *Information Privacy Regulation 2009* (Qld); and
- Information Standard 33: *Information Access and Use* (IS33).

5. Scope

The DESBT Administrative Release Policy and Procedure applies to all departmental staff, including:

- permanent employees;
- temporary employees;
- casual employees; and
- trainees/cadets.

6. Procedure

6.1 Step 1

The person requesting the information (the Requestor) should make their request in writing and the date it was received should be recorded.

6.2 Step 2

Conduct a preliminary assessment of the request and determine the suitability for administrative release of the document/s, having regard to Appendices A, B and C of this Policy and Procedure as well as any known sensitivities of the matter at issue.

6.3 Step 3

Provide acknowledgement of receipt of the request to the Requestor and advise the Office of the Director-General of the request.

6.4 Step 4

Conduct searches and retrieve all of the relevant documents.

6.5 Step 5

Assess the relevant documents to consider if they are appropriate to release administratively, referring to **Appendices A, B and C** of this Policy and Procedure, and seek advice from Right to Information Services if necessary.

6.6 Step 6

Endeavour to provide the documents to the Requestor within 20 business days from the date of receipt (or sooner if possible).

6.7 Step 7

Keep the Requestor informed of the progress of their request and notify of any delays.

6.8 Step 8

Prepare a draft letter of response and a copy of the documents proposed for release for approval by the relevant Deputy Director-General.

6.9 Step 9

Once approved, place a copy of the documents and the signed letter of response onto the appropriate departmental file (electronic and/or hard copy). Watermark the documents (refer to **Appendix E** which contains an example watermark) and prepare to send to the Requestor. Preference should be given to providing the documents to the Requestor electronically in PDF format (such as by email, or on compact disc or USB drive) which can be provided free of charge, unlike the provision of hardcopies which may incur charges. See **Appendix A** for further details on access charges.

6.10 Step 10

Send the response to the Requestor. Forward your response to the Office of the Director-General for noting.

6.11 Step 11

There is no right of review in relation to an administrative release decision. Individuals who are dissatisfied with an administrative release decision should proceed to make an application for access to the documents under the RTI or IP Acts. In this instance, refer the Requestor to Right to Information Services.

6.12 Step 12

Appendix D contains a step-by-step procedure for administratively releasing documents.

7. Responsibilities

Director-General is responsible for:

- endorsing the DESBT Administrative Release Policy and Procedure and the proactive release of departmental information generally, consistent with the RTI Act, the Whole-of-Government Open Data Initiative and Information Standard 33: *Information Access and Use* (IS33).

Executive Leadership Team members are responsible for:

- encouraging their division/s to facilitate the administrative release of departmental information to the maximum extent possible and to seek advice from Right to Information Services where required in relation to the appropriateness of releasing documents administratively.

Deputy Directors-General are responsible for:

- approving the administrative release of information.

Business units/divisions are responsible for:

- processing administrative release requests for information which relate to their functions or responsibilities;
- maintaining appropriate records for any administrative release requests;
- forwarding the draft response and documents proposed for administrative release to the relevant Deputy Director-General for approval;
- consulting with Right to Information Services if unsure about the release of any information; and
- responding to the Requestor.

Right to Information Services is responsible for:

- providing the department with expert advice and assistance if required.

8. Definitions and glossary of terms

Administrative release – the release of information in response to a request other than by an access application under the RTI or IP Act, or other legislative means. Administrative release can be distinguished from more proactive releases of information such as under the publication scheme, disclosure log or access which is authorised or required to be given under legislation.

Documents – any document or record within the possession or control of the department, including hardcopy and electronic records, such as emails, audio and video tapes, discs and reports.

Information – the content of documents.

IPPs – the Information Privacy Principles which are set out in Schedule 3 of the IP Act.

Personal information – information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, in accordance with section 12 of the IP Act.

Requestor – the person or entity seeking access to documents administratively.

Third party – a person or organisation other than the department or the Requestor, and includes individuals, companies, other departments, other state governments, the Australian Government and local government agencies.

9. Related Documents

The DESBT Administrative Release Policy and Procedure should be read in conjunction with the Department's Information Privacy Policy.

10. References

- Office of the Information Commissioner Queensland Guideline Administrative Release of Information <http://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/proactive-disclosure/administrative-release-of-information>
- Office of the Information Commissioner Administrative Access Checklist <https://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/proactive-disclosure/admin-access-checklist>
- Information Standard 33: *Information Access and Use* (IS33) <https://www.ggcio.qld.gov.au/documents/information-access-and-use-policy-is33>.

11. Further information

For further information on the DESBT Administrative Release Policy and Procedure, please contact Right to Information Services on telephone 3330 6111 or by email to rtiservices@des.qld.gov.au.

12. Storage of Information

All information should be managed in accordance with the Queensland Government Information Management Framework, which includes the *Public Records Act 2002* (Qld), Information Standard 31: *Retention and disposal of public records* (IS31) and Information Standard 40: *Recordkeeping* (IS40). In addition, personal information should be managed in accordance with the *Information Privacy Act 2009* (Qld), in particular the Information Privacy Principles (IPPs) in that Act.

13. Review

The DESBT Administrative Release Policy and Procedure shall be reviewed within two years of the **Last Reviewed** date.

14. Approval

<p>Name Mary-Anne Curtis Director-General Department of Employment, Small Business and Training</p> <p>Date: 16 September 2019</p>

15. Version history

Date	Version	Action	Description / comments
16/09/2019	1.00	Approved by the Director-General	New document

16. Keywords

administrative release; admin release; release of information; administrative access; admin access; access to information; right to information; RTI; freedom of information; FOI; personal information; Office of the Information Commissioner; OIC.

Appendix A - Information that may be released administratively

The types of documents that are generally suitable for administrative release include those:

- provided to the agency by the person seeking access to them;
- provided by the agency to the person seeking access to them;
- which are publicly available; or
- which are routinely made available by the agency.

Other information may be suitable for administrative release, however the types of information must be considered in conjunction with the issues discussed in **Appendix B**. If any of the types of information discussed in Appendix B is present in a document, the administrative release of that document will not be appropriate and application for access to the information should be made under the RTI and IP Acts. If there is any uncertainty advice should be sought from Right to Information Services.

Where a decision is made to release documents administratively, preference should be given to releasing the documents free of charge on compact disc or by email. Access may also be given by providing photocopies of the documents however, a charge of 25 cents per black and white A4 page may be charged to the Requestor.

Requestor's own personal information

It will usually be appropriate to administratively release a Requestor's own personal information. However, this is subject to the considerations in **Appendix B**. You will need to consider these circumstances before administratively releasing the information.

Where it is suitable to release documents containing the Requestor's own personal information, the Requestor must provide a certified copy of suitable identification. Acceptable forms of identification include:

- driver licence or passport;
- certificate or extract from a register of births; or
- statutory declaration from an individual who has known the person for at least one year.

The copy must be certified as being a true and correct copy of the original by one of the following witnesses:

- lawyer or notary public;
- commissioner for declarations or justice of the peace.

Publicly available documents or other documents that are routinely made available

The following are examples of the types of information that can be made readily available to the public, upon request:

- the majority of policy documents and other documents that are routinely made available by the department;
- all documents required or authorised to be published or made publicly available under an Act; and
- any information which is publicly available on existing registers, such as licences, permits and approvals, taking into account any statutory fees or charges that would otherwise be payable.

Before releasing publicly available documents, it should be considered whether there is an existing arrangement in place for the release of the information, such as via public registers. For example, where information is publicly available but is conditional on the payment of a fee, the Requestor should be referred to that process in order to maintain consistency with the release of that type of information.

Administrative access scheme

If your business unit has a recurring demand for administrative release of a particular type of information (that is routinely compliant with release under this Policy and Procedure), contact Right to Information Services to discuss the merits of establishing a formal administrative access scheme. The potential benefits of having an information specific administrative access scheme in place include:

- the access arrangements would be formalised under a policy document published on the Department's website;
- the public would have greater visibility of the access arrangements;
- improved responsiveness in the department processing the requests for information;
- department staff would have greater clarity and confidence when making decisions in relation to administrative release; and
- administrative access schemes would be approved by the Director-General.

Appendix B - Information that should not be released administratively

There are some cases where releasing information administratively is inappropriate. It is for this reason that the decision to provide access to information administratively rests with the relevant Deputy Director-General. Seek advice from Right to Information Services if there is any doubt or uncertainty, otherwise recommend that an application be made for access under the RTI or IP Acts.

The RTI Act sets out the types of information which Parliament has decided should not be released to the public. The following are examples of the types of information Schedules 3 and 4 of the RTI Act contemplate that should **not** be released:

- personal information of someone other than the Requestor;
- complainant/informant names, addresses and any identifying details;
- information which is likely to concern a third party, including documents which are commercial in confidence or concern a company's business or financial affairs, unless the Requestor is a director of the company involved;
- legal advice, whether in whole or part;
- documents relating to a current investigation or prosecution;
- Cabinet and Executive Council material, including drafts;
- briefs for Possible Parliamentary Questions;
- documents concerning internal employee grievance or disciplinary matters; or
- documents that are expressly prohibited from disclosure under legislation.

Requests for access to documents containing the above information should instead be directed to Right to Information Services to apply for access to the information under the RTI or IP Acts.

Documents requested under the *Evidence Act 1997* (Qld) or as part of a court ordered request, such as a Subpoena, Notice of Non-Party Disclosure or Summons, should be immediately referred to DESBT Legal Services for appropriate action.

More information is provided below on the types of information which are more regularly encountered in departmental documents.

Personal information

If a document contains the personal information of an individual other than the Requestor, it may not be possible to release the information administratively as to do so may potentially breach the IPPs contained in Schedule 3 of the IP Act.

Examples of personal information include:

- a person's name;
- signature;
- residential address (as opposed to business address);
- date of birth;
- photograph; and
- any details about a person that may not identify the person, but from which (individually or collectively) their identity may be reasonably ascertainable.

If you have a document that contains the personal information of another individual, it will usually be more appropriate to recommend an application be made under the RTI Act. In the first instance you should contact the Right to Information Services.

For more information in relation to the department's privacy obligations under the IP Act, please contact DESBT Legal Services.

Business, commercial and financial information

Under the RTI Act, it is recognised that it is inappropriate to release information which could reasonably be expected to prejudice the business, professional, commercial or financial affairs of an entity. Such an expectation is likely to exist if a business is operating in a commercially competitive environment and a competitor could use the information to cause commercial harm to that business.

Examples of this type of information include:

- information about another entity's business plan or future investment strategies;
- the financial information of an entity; or
- technical information or expert advice about another entity's products or services.

If you have a document that contains information of a similar nature, and where consent from the third party has not been obtained, it is most likely inappropriate for administrative release. An application under the RTI Act is the best method of accessing the information and you should contact Right to Information Services for assistance.

Confidential information

Some information provided to departments is considered to be confidential. It will be inappropriate to administratively release information where:

- the department is subject to a contractual obligation of confidentiality; or
- a document has been communicated to the department on the condition or expectation it is kept confidential.

An application should be made under the RTI or IP Act and you should contact Right to Information Services for assistance.

Legal advice

Legal professional privilege is a right which protects the confidentiality of communications between a client and lawyer, if the communication was made for the dominant purpose of:

- obtaining legal advice; or
- preparing for actual, pending or reasonably anticipated legal proceedings.

Communications between a departmental lawyer and client business group will generally attract legal professional privilege. Examples of this type of information include:

- a request for legal advice;
- a copy of legal advice;
- attachments to these documents;
- documents provided to or obtained by a lawyer in the course of preparing a legal advice or in relation to current or reasonably anticipated legal proceedings; and
- drafts of documents that attract legal professional privilege.

It is inappropriate to release any form of privileged communication administratively, as to do so would mean its privilege will be lost.

For more information with respect to legal professional privilege, please contact DESBT Legal Services.

Defamatory information

Defamatory matter is that which lowers the reputation or estimation of a person in the eyes of the public. If a document contains defamatory information it is not appropriate for administrative release.

An application for the information should be made under the RTI Act or IP Act. Appropriately delegated RTI decision makers who disclose information under the RTI and IP Acts are afforded protections in those Acts against an action for defamation, should they decide that the balance of the public interest does favour the disclosure of that information.

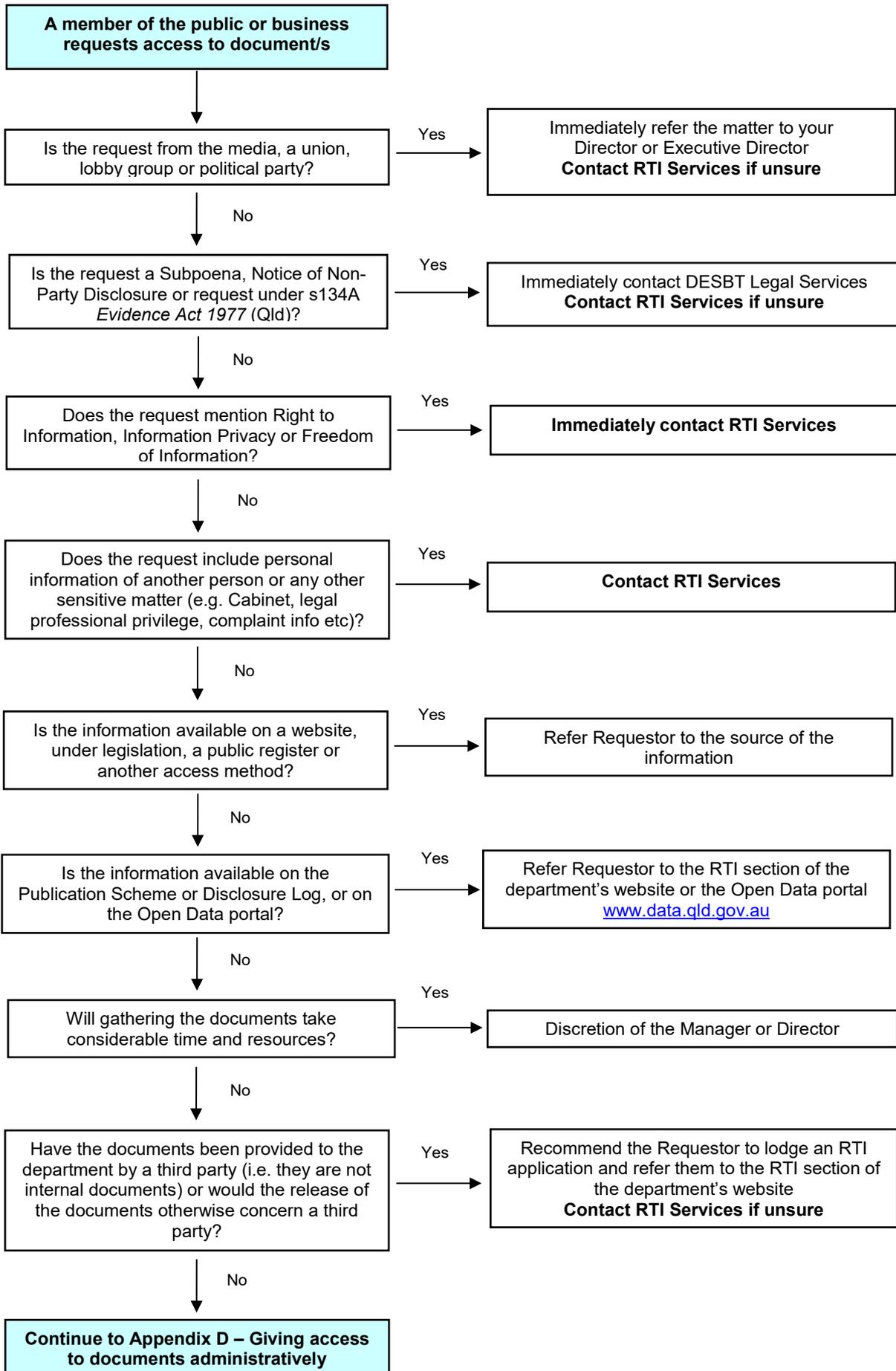
Copyright

Copyright is a type of property that is produced from the output of the skill and labour of an individual or an organisation. Section 31 of the *Copyright Act 1968* (Cth) sets out that copyright, in relation to a written work, is a collection of exclusive rights to do such things as reproduce the work in a material form, publish the work, perform the work in public or communicate the work to the public. In this way, copyright protects 'original works' - the form or way an original idea or information is expressed, rather than the actual idea or information itself. Copyright is owned by the author of the work and subsists for a period of 70 years from the date the work was first published.

A document that contains copyright information will not be appropriate for administrative release. If copyright does not rest with the Crown, care must be taken that documents are provided for inspection or viewing only. If the Requestor attends a departmental office to inspect the documents, an officer of the department should always be present during inspection. Alternatively, approval to release copies of these documents may be sought from the author.

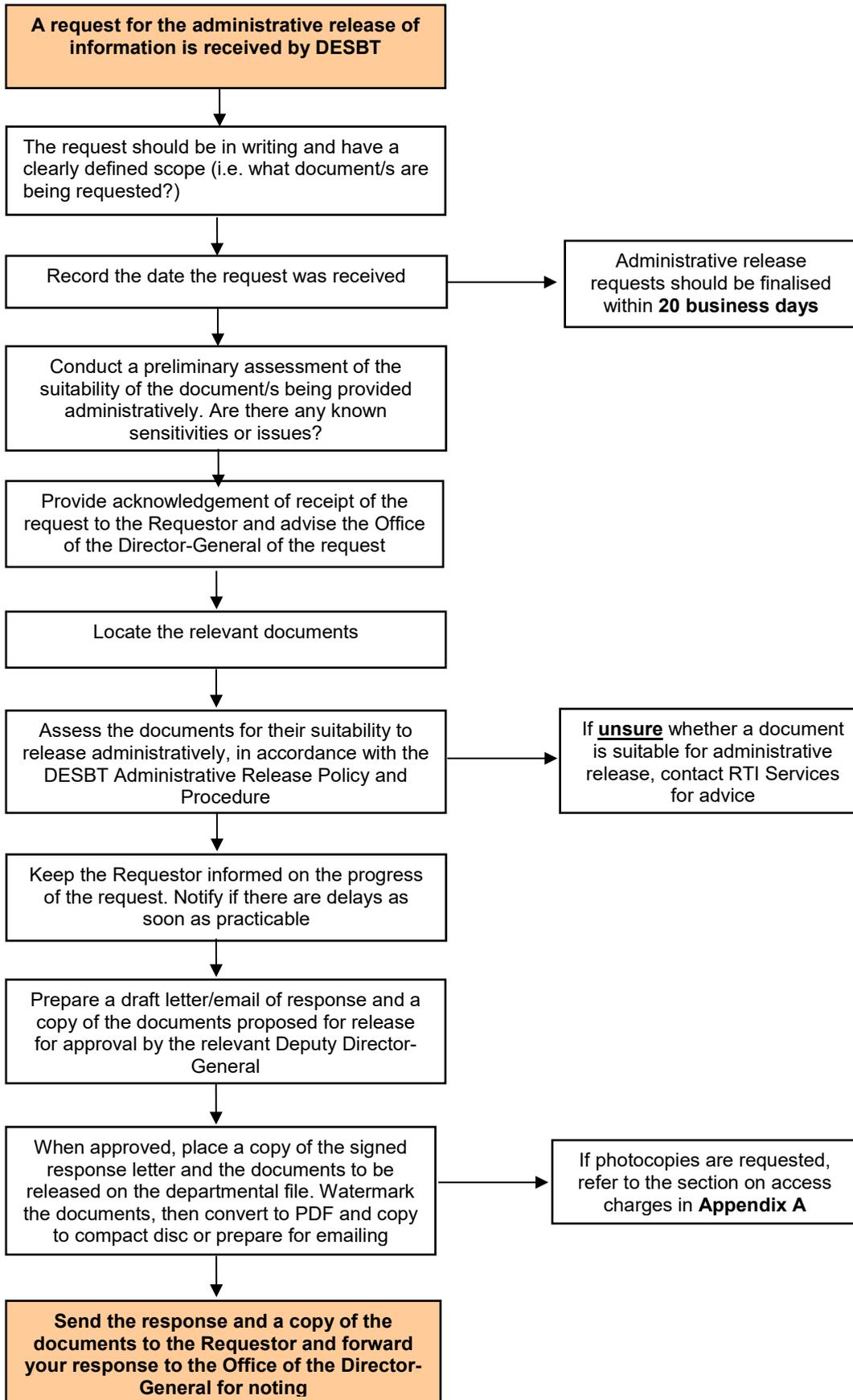
Appendix C - Initial considerations

Follow the steps below to determine if the request can be progressed under administrative release:



Appendix D – Releasing documents administratively

If all of the initial considerations have been met, follow the guide below to process the request for administrative release:



17. Appendix E – Example watermark for administrative release

DESBT Administrative
Release