

DES Administrative Release Policy and Procedure

Owner Right to Information Services

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Version 2.0

1. Purpose

The DES Administrative Release Policy and Procedure outlines the procedural and decision-making steps for departmental employees when considering if departmental information can be released through administrative (non-legislative) means. Administrative release provides the community with a less complex and more efficient alternative to the release of documents under the *Right to Information Act 2009* (Qld) (RTI Act) or the *Information Privacy Act 2009* (Qld) (IP Act).

This policy and procedure provides that a decision to release information administratively is discretionary and is based upon the same public interest principles in the RTI and IP Acts. The aim is to maximise the flow of information to the public whilst protecting the rights of all parties whose interests may be prejudiced by the release of information.

2. Policy

The RTI Act and IP Act provide formal processes for members of the public to apply for access to documents in the department's possession or control. These Acts require the department to release any documents applied for, unless doing so would not be in the public interest.

However, the Preamble of the RTI Act states that formal applications under the Act are a last resort, with government information to be released administratively unless there is a good reason not to do so. This principle is reiterated in Information Standard 33, Information Access and Use (IS33). Section 19 of the RTI Act provides that an agency can achieve this by enabling administrative access to government information.

Administrative release complements other ways in which the department proactively discloses information. These include: information published on the department's website; the department's publication scheme; information made routinely available (including via public registers); and the department's disclosure log, in which the department publishes documents that have been released to applicants in response to access applications under the RTI Act.

3. Administrative Release Arrangements for Specific Categories of Documents

The DES Administrative Release Policy and Procedure is primarily designed to address ad hoc requests for documents.

Categories of documents that are routinely requested and considered for administrative release, either generally or to specific categories of requestors, may be suited to a stand-alone administrative access scheme designed to address the circumstances attaching to those requests. Those arrangements can include decision-making provisions that address the needs of the specific operating environment (e.g. that identify specific decision-makers, or decision-makers at a nominated level). See **Appendix A** – Administrative access scheme.

Right to Information Services is available to assist in:

- assessing categories of documents that could potentially be subject to stand-alone administrative release arrangements, and
- where appropriate, assisting the business area to develop a stand-alone administrative release policy and procedure.

4. Principles

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

1. The department will administratively release documents within its possession or under its control, unless there is a good reason not to. Formal applications for access under the RTI or IP Acts will only be used if no other form of access is appropriate.



2. 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 provides that administrative release will generally be appropriate if:
 - disclosing the information will have no adverse effects on the department or any third parties;
 - the likely 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 by particular applicants.
3. Proper consideration must be given to who is requesting the information when assessing if a document should be released.
4. The contents of the document must be examined and any information that should **not** be released administratively must be identified.
5. The types of information that are generally suitable for administrative release are outlined in **Appendix A**. A discussion of the types of information that are **not** suitable for administrative release are set out in **Appendix B**. **Appendix C** sets out the initial considerations for assessing if a request for documents is appropriate to be 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.
6. If a document/s contains information that should not be released administratively, the document/s will generally **not** be suitable for administrative release. Rather than removing information from the document/s, the client should be invited to submit an application under the RTI or IP Act.
7. If there is any uncertainty about whether a document should be released administratively, advice must be sought from Right to Information Services.

5. 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).

6. Human rights compatibility

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019* (Qld), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this Policy and Procedure, officers must comply with that obligation (refer to *Comply with Human Rights Act*).

7. Scope

The DES Administrative Release Policy and Procedure applies to all departmental employees, including permanent, temporary, casual and trainee/cadets.

8. Procedure

Unless otherwise specified, all actions below are to be undertaken by the business group that holds the information requested.

8.1 Step 1

Upon receipt of a written request for information (from the Requestor), record the date it was received.

8.2 Step 2

Conduct a preliminary assessment of the request and determine the general suitability for administrative release of the document/s, based on any known sensitivities of the matter at issue.

8.3 Step 3

Acknowledge the receipt of the request to the Requestor.

8.4 Step 4

Conduct searches and retrieve all the relevant documents.

8.5 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. If unsure, seek advice from Right to Information Services.

8.6 Step 6

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

8.7 Step 7

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

8.8 Step 8

Prepare a draft letter of response and a copy of the documents proposed for release, for the approval of an officer at Senior Executive Services level or above.

8.9 Step 9

Once approved, place a copy of the documents and the signed letter of response on 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 the documents to the Requestor.

Preference should be given to providing the documents to the Requestor electronically in PDF format (such as by email, shared drive, compact disc or USB drive), which can be provided free of charge. Alternatively, hard copies of the documents may incur charges. See **Appendix A** for further details on access charges.

8.10 Step 10

Send the response to the Requestor.

8.11 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.

9. Responsibilities

Director-General is responsible for:

- approving the DES 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).

Deputy Director General, Corporate Services is responsible for:

- reviewing the DES Administrative Release Policy and Procedure and approving amendments to the document.

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.

Senior Executive Services level officers or above 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 an officer at Senior Executive Services level or above 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 upon request, either in relation to ad hoc requests for documents or in the development of stand-alone administrative release arrangements for specific categories of documents.

10. 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 that is authorised or required 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 in recorded 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.

11. Related documents

The DES Administrative Release Policy and Procedure should be read in conjunction with the department's Information Privacy Compliance Policy.

12. 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.qgocio.qld.gov.au/documents/information-access-and-use-policy-is33>.

13. Further information

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

14. 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) and the Whole-of-Government Records Governance Policy. All documents must be retained in accordance with the departmental Recordkeeping Policy and Retention and Disposal Policy and Procedure. All personal information must be managed in accordance with the *Information Privacy Act 2009* (Qld), including the Information Privacy Principles (IPPs) in that Act.

15. Review

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

16. Approval

Signed: Susan Chrisp Deputy Director-General Corporate Services Department of Environment and Science Date: 23 June 2022

17. Version history

Date	Version	Action	Description / comments
23 December 2018	1.0	Approval by Acting Director-General	New document
23 June 2022	2.0	Review approved by Deputy Director-General, Corporate Services	Wording simplified and guidance included on the development of stand-alone administrative release arrangements and human rights considerations

18. 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, requests for information must be considered in conjunction with **Appendix B**, which outlines the information that should not be released administratively. If any of those types of information are present in the documents, the administrative release of that document will not be appropriate. If there is uncertainty, seek advice from Right to Information Services, or otherwise recommend that an application be made for access under the RTI or IP Acts.

Where a decision is made to release documents, preference should be given to releasing the documents electronically, which can be provided free of charge. Photocopies of the documents may also be provided; however, the Requestor can be charged 25c per black and white A4 page. As the cost to the department in processing payment for photocopies will often exceed that which is recovered, preference should be given to releasing the documents free of charge by email, shared drive, compact disc or USB.

Requestor's own personal information

It will usually be appropriate to administratively release a document that only contains the 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.

If a photocopy is provided on any of the above forms of identification, 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, business groups should refer the Requestor to that process in order to maintain consistency with the release of that type of information.

Administrative access scheme

Where there is a recurring demand for the 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 such a framework include:

- the access arrangement being formalised in a policy document published on the department's website;
- the public having greater visibility of the access arrangements;
- improved responsiveness in the department processing the requests for information;
- employees having greater clarity and confidence when making release decisions; and
- Director-General approval for the specific administrative access scheme.

Appendix B - Information that should not be released administratively

There are many cases where releasing information administratively is inappropriate. If there is any doubt, seek advice from Right to Information Services, or 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. They include:

- personal information of someone other than the Requestor;
- complainant/informant names, addresses and any identifying details;
- information that is likely to concern a third party, including documents that 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.

Requestors seeking access to documents containing the above information, or any other categories of information that would likely be withheld from release, should 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 In-House Legal at legalservicerequest@resources.qld.gov.au 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 doing so may breach the Information Privacy Principles 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 Privacy Services or Right to Information Services.

For more information on the department's obligations under the IP Act, please refer to the department's Information Privacy Compliance Policy or contact Privacy Services at privacy@des.qld.gov.au.

Business, commercial and financial information

Information should not be released if it could reasonably be expected to prejudice the business, professional, commercial or financial affairs of an entity. This will likely occur if the entity 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 for accessing the information and Right to Information Services should be contacted for assistance.

Confidential information

It is 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.

If you believe the information may be confidential, the Requestor should be asked to make an application under the RTI or IP Act or you should contact Right to Information Services for assistance.

Legal advice

Legal professional privilege is a right that 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 can 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.

Privileged communications must not be released administratively, as doing so could result in the loss of the privilege. For more information on legal professional privilege, please contact In-House Legal at legalservicerequest@resources.qld.gov.au.

Defamatory information

Defamatory matter is information that would lower the reputation or estimation of a person in the eyes of the public. If a document contains information that could be defamatory, 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 favours the disclosure of that information.

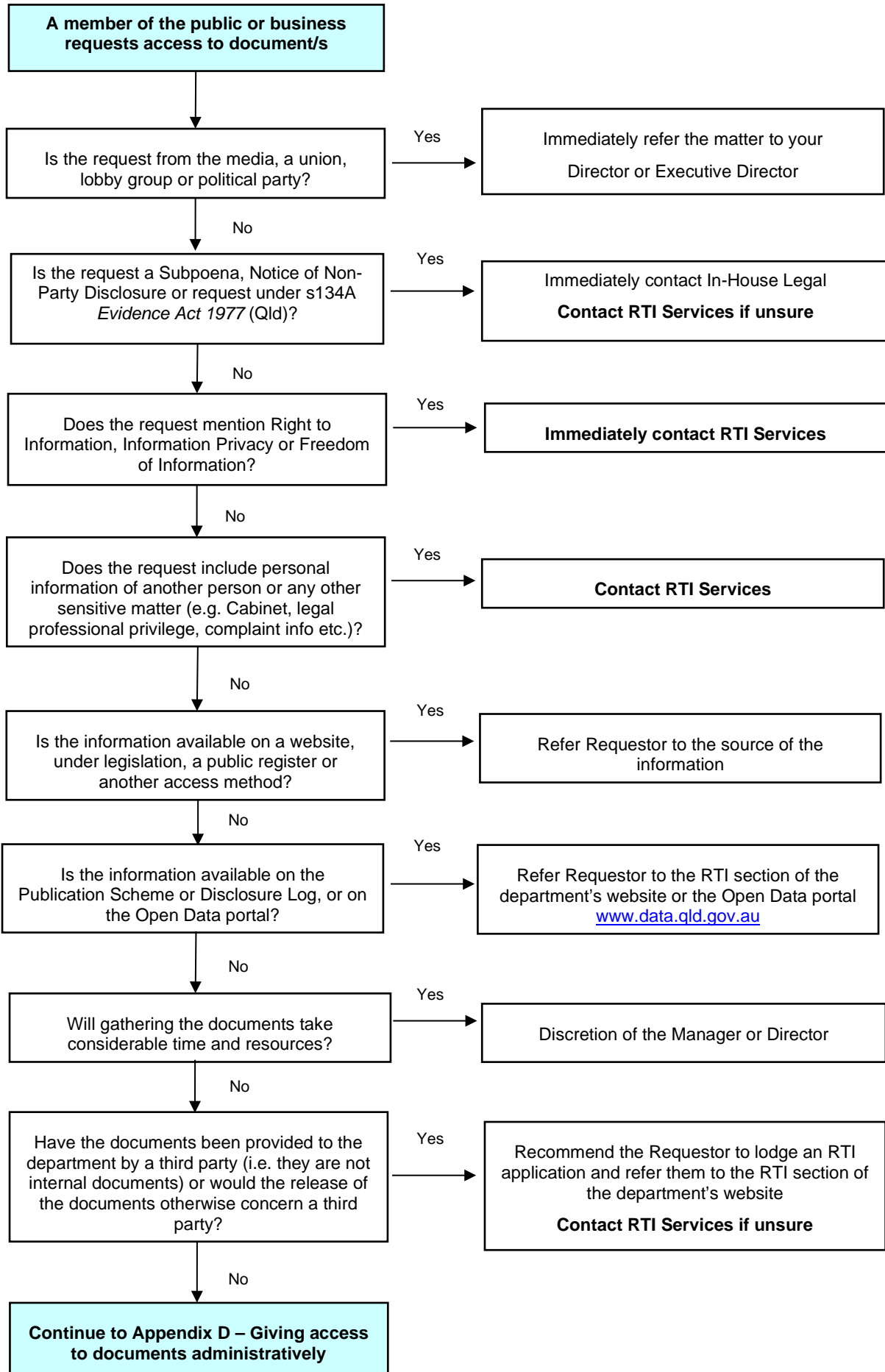
Copyright

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.

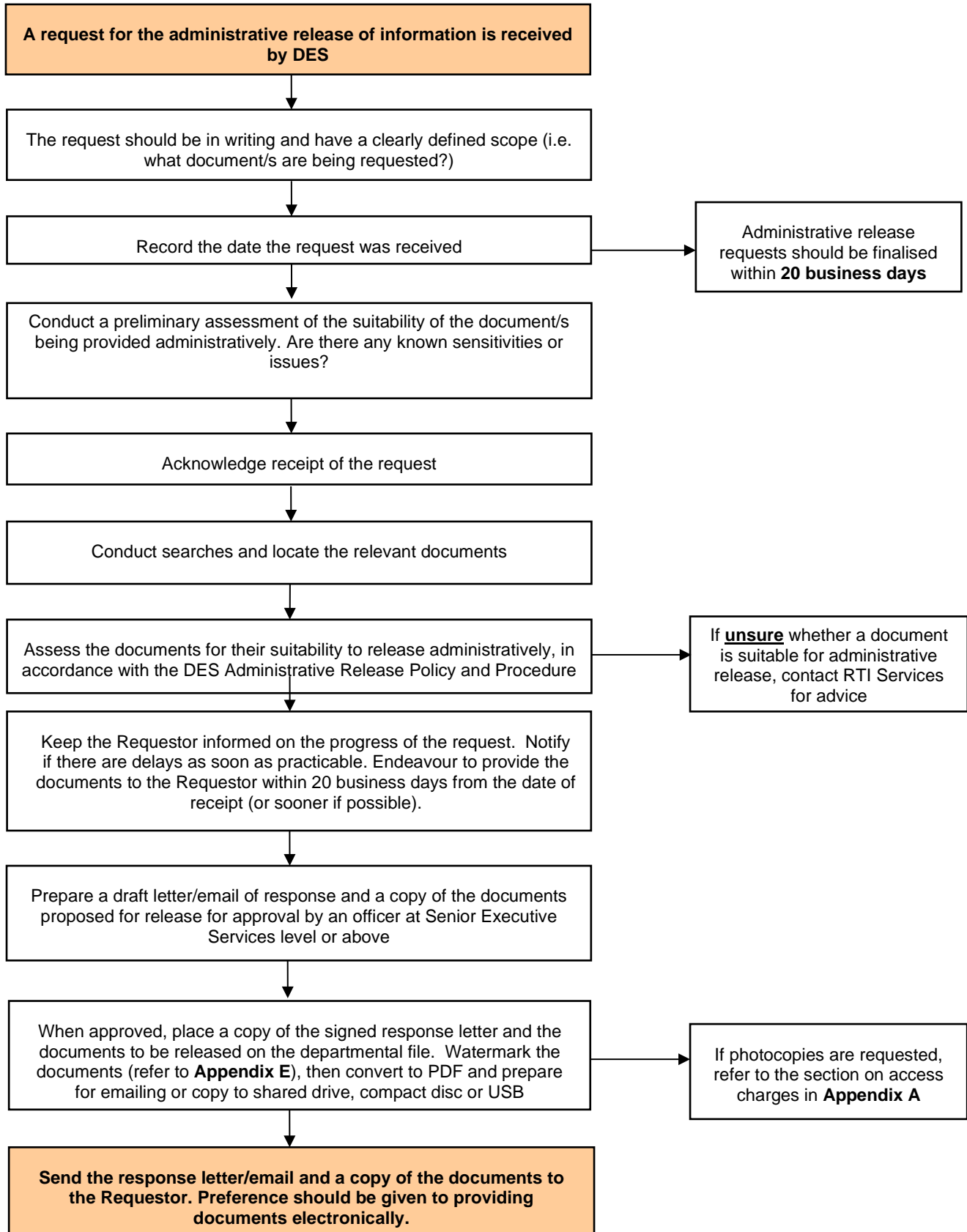
Appendix C - Initial considerations

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:



19. Appendix E – Example watermark for administrative release

DES Administrative Release