

13. Taking Action

Decision-makers and members of the community can sometimes fail to act in the environment's best interests. Sometimes, an environmental defender has to step up...

It is always better to be proactive and take action to avoid environmental impacts before they occur.



Community participation early in decision-making processes is crucial to successfully defending the environment.

This chapter and [Chapter 14](#) focus on different ways in which you can participate in decisions being made about the environment – from contributing to the development of a planning scheme in your area, or a management plan for your favourite national park, to challenging a particular development.

Participation can range from lobbying and letter writing to taking your case to the [Resource Management and Planning Appeal Tribunal](#).

13.1 Handy hints for an environmental defender

Act promptly

Don't put action off until tomorrow. Legal and planning processes usually have very strict time limits within which you are able to take action. Once a decision has been made there are strict deadlines for making appeals. Very often missing a deadline can mean losing your case, even if what you're arguing is correct.

Get involved before problems occur

Tasmania's Resource Management and Planning System (**RMPS**) provides opportunities to get involved in the planning process in the early stages, before problems crop up. Being proactive can stop a lot of problems from occurring, and is often easier (and less expensive) than fighting something after a decision has been made

- Go to [Chapters 4](#) and [5](#) for an outline of opportunities for public involvement.

Keep good records

It is extremely important to keep a file recording your observations and all communication that you have had with various parties – including the person or company involved, relevant government agencies, the Tribunal and local members. This means keeping copies of letters and submissions you have sent and received and recording the details of all phone conversations relating to the matter, noting the date, time, the person you spoke to and the details of what was said.

Gather vital information

It is important to gather as much information as possible about the issues as early as you can. This will be particularly useful if you need to get advice from a lawyer. It is surprising how many people lodge complaints before obtaining basic information about the issue - some of this information will be publicly available, some you will need to request from other parties, such as the company involved, the local council or government agencies.

What sort of information do I need?

Information that may be useful includes:

- The time of day an event (such as a spillage) occurred
- The precise location (by description or using map coordinates)
- A map of the area indicating any environmental features of concern
- Evidence showing environmental harm such as photographs, videos and statements of witnesses
- Planning information, including what zone a proposed development will be located in, which planning scheme applies to the site and any relevant development control plan or development guidelines adopted by council in relation to the site, or to the particular type of development.
- The development application and the final decision in relation to a development activity (e.g. the permit issued by the planning authority, or notice issued by the EPA).



In pollution cases, get a copy of any permits or Environment Protection Notices issued by the EPA or the local council. This will help you to understand whether the level of emissions from a site is allowed or not, and what actions you can take. For example, if the emissions are not allowed, you could ask the Council to prosecute the company. If the permit does allow the emissions, you could lobby the Council for changes to the permit to reduce the permitted emissions.

- Any reports or minutes of meetings held by local council and its relevant committees.
 - 🗨️ Council meetings are generally open to the public and most councils publish their agenda papers, supporting reports and meeting minutes on their website. These often include important reports from council officers, giving the history of the matter and the particular officer's opinion of the issue - these reports can help you to understand how the decision you wish to object to was made.
- Expert opinion, or at least well-informed opinion, on the actual or potential harm you are concerned about
- Documents used to support the development application such as Environmental Impact Statements flora and fauna reports or other studies
- Reports or letters of any agencies who may have been consulted such as the EPA Division, Heritage Tasmania, Parks and Wildlife Service
- Find out which legislation applies (it could be more than one Act). Don't be frightened by the complexity – knowledge is power! If you are confused about which laws apply, contact EDO Tasmania for advice.

Accessing government information

Access to information that is on the public record is pivotal to the workings of a modern democracy. No matter what issue you are confronting, information is a vital ingredient.

Under the *Right to Information Act 2009*, citizens have the legally protected right to obtain information from councils and government departments (👉 see below, this chapter).

Alert relevant authorities

Once you understand the problem, and the agency that is responsible for regulating it, contact the state pollution hotline, police, Parks and Wildlife officers, fisheries inspectors, [Forest Practices Authority](#) or your [local council](#) as soon as you can and let them

know what you have observed. Ask them to investigate your complaint promptly and to let you know the outcome of their investigation.

Got a problem?	Who to call?	Call this number
Planning or building infringements	Local council	Check phone directory
Pollution infringements	Local council and/or EPA Division	1800 005 171 (Free call)
Pollution that causes health problems	Health Officer at Local Council Health Dept	1800 671 738 (health - freecall)
Pesticide spraying	Spray Information and Referral Unit	1800 005 244 (Free call) or 03 6336 5252
Destruction/interference with Heritage Properties	Local Council or Tasmanian Heritage Council	1300 850 332 or 03 6233 2037
Wildlife infringements	Local ranger station or Parks and Wildlife HQ	Regional Contacts HQ – 1300 135 513 or South: 03 6233 6556 (after hours) North: 03 6336 5312
Forest Practices infringements	Forest Practices Authority	03 6233 7966
Breaches of water laws or water catchment laws	Water Management Branch	03 6165 3222
Fisheries infringements (sea)	Marine police	03 6230 2475 (Free call)
Fisheries infringements (inland)	Inland Fisheries Service	0438 338 530 (after hours) or 03 6261 8050
Genetically modified crops	DPIPWE	1300 368 550
Biosecurity issues	DPIPWE	03 6165 3085
Littering	Litter Hotline	1300 135 513

 If an officer appears unresponsive to your call, you may need to persuade them to carry out their responsibilities. For pollution offences, it is often useful to remind Council officers that they have an obligation under the *Environmental Management and Pollution Control Act 1994* to “use their best endeavours to minimise pollution”.

For some reports, such as those relating to littering, you may need to agree to sign an affidavit about what you have seen before the EPA will investigate.

Ask to be called back once the issue has been resolved or to find out what action has been taken. Follow up your call with a letter, if appropriate. This should ensure that you receive an answer.

Take samples

If the issue that concerns you is pollution and you cannot get the responsible authority to take samples quickly enough, it may be useful to take a good sample for chemical analysis, particularly at the time the pollution is actually taking place.

Use glass containers, well washed and rinsed in distilled water. Find out how to store the sample appropriately and label it with time, date, location and circumstances.

It is often useful to contact your local [Waterwatch](#) or [Landcare group](#). They may have sampling records for the area, and can provide advice about sampling techniques.

Act locally

You can have a say in developments in your neighbourhood, including such things as heights of buildings, tree removal, traffic hazards and waste disposal.

- If you have a concern about a local issue, don't be afraid to front up to your council and ask questions. Most local government officers will happily inform you about their planning schemes and local by-laws and where to inspect them. Some councils employ a legal officer who can help you to understand the local by-laws.
- You can get involved in setting the controls and zones in your local planning scheme
 - ☛ Go to [Chapter 4](#), to find out how
- You can exercise your right to lodge an objection to a new development
 - ☛ Go to [Chapter 5](#) for information on how to find out about and appeal against a local development if you are unhappy with it
- You can also take civil enforcement action to enforce planning and pollution controls in relation to existing premises (see below).



Get legal advice

It's best to get professional advice as soon as an issue arises. This will give you an overview of the legal options that are available and help you to decide on the best course of action. You may need to act quickly to give your case the best chance of success.

If you can, it's best to get advice from someone (eg a lawyer or planner) who has special knowledge of environmental law and experience in bringing cases before the Resource Management and Planning Appeal Tribunal. A solicitor or community worker who knows the ropes may be able to identify quickly whether a potential appeal has a good chance of success or not.

- 📌 Free advice about planning issues is also available through the Planning Aid service at Hobart Community Legal Service.
 - ☛ Go to Chapter 14 for more information about getting legal advice

Prompt the relevant authority to take legal action

If you are concerned that another person's activities are damaging the environment and that they may be in breach of legislation, you may not have "standing/" to take legal action yourself (☛ see [Chapter 14](#) for information about "standing"). However, you may be able to prompt the relevant authority (such as your local council) to take legal action.

If the breach of legislation is in relation to the *Environmental Management and Pollution Control Act 1994*, you should alert the EPA. The EPA have an [Enforcement Policy](#) which sets out the measures that DPIPWE will use where laws are being breached. There are a number

of actions which the EPA can undertake, including education and creating awareness, assisting industry, partnerships and monitoring to non-formal and formal enforcement through investigations, statutory warnings, infringement notices through to prosecution.

🚫 Not all investigations will necessarily result in prosecutions. You should be aware that, if a prosecution is going to succeed, the EPA may need you to give evidence about your observations (e.g. that you saw a pollution plume on a particular day). Think about whether you are prepared to do this.

Take legal action yourself

In some situations, a member of the public who can demonstrate that they have legal "standing" (that is, a sufficient interest in the matter 🗨️ see [Chapter 14](#)) can take civil enforcement action (see below).

13.2 How you can challenge a decision made by a government agency

You can make a complaint to the Ombudsman

If a government agency refuses to take action when it should, you may take the matter to the state (or federal) Ombudsman, who has the power to investigate the issue and pressure the agency to take appropriate action.

🗨️ See below for more information about the Ombudsman

You can use lodge an appeal against certain decisions

In Tasmania, a number of statutes enable a decision of a local council or government agency to be challenged in the [Resource Management and Planning Appeal Tribunal](#). The Tribunal's decision can be appealed to the [Supreme Court](#).

Where the government agency is a Commonwealth one, its decision may be challenged in the Administrative Appeals Tribunal, if the relevant legislation provides for this (🗨️ see [Chapters 5](#) and [14](#)).

🚫 **Appeals generally need to be lodged within 14 days of the decision being made.**

You can seek a judicial review

You can apply to the [Supreme Court](#) for review of a decision of made by a government agency. The court does not consider the merits of the decision, only whether the decision-making process was appropriate. The Court will consider, for example, whether

- the parties were given a fair opportunity to present their case;
- the decision-maker was unbiased and made a 'reasonable decision';
- the relevant statutory provisions were correctly applied;
- the decision-maker took into account any irrelevant considerations, or failed to take account of relevant considerations.

🚫 **Applications for judicial review generally need to be lodged within 28 days after you receive notice of the decision, or reasons for the decision (if you have asked for a statement of reasons).**



You can apply for an injunction or a prerogative writ

If a government agency is not doing what it should under a particular statute, you may be able to apply for a 'prerogative writ' in the [Supreme Court](#). The court can order the agency to do what it should do, or stop doing what it should not be doing.

🗨️ This is a very complex procedure, so make sure you seek legal advice before considering this option.

13.3 Alternatives to taking legal action

If you are concerned that environmental damage is being caused in your area, there is a range of things you can do to prevent it.

Before you consider taking legal action against the person you think is responsible for the damage, think about what other options there may be to solve the problem more quickly, more amicably, and with less expense.



Contact the person causing harm

Often the easiest way to resolve a situation is simply to approach the person causing the problem and discuss it with them. It is surprising how many people avoid doing this.

It could be that the person did not know that their activity was causing harm, and on becoming aware of your concerns, may agree to modify their activities.

Similarly, it is well worth contacting community bodies operating in the local community, such as Coastcare groups, Waterwatch and progress associations. Because of their established links within the community, they may help to resolve the problem amicably, avoiding expense and conflict.

Generally, you should not consider legal action until you are sure that the problem cannot be resolved at this level.

Contact the relevant enforcement agency

In most situations, a government agency is responsible for regulating the activity you are concerned about. If the relevant authority has the power to rectify the problem, it usually has a range of steps it can take. It can exert pressure on the person, it can issue an infringement notice, a direction or other notice. If those more cooperative approaches fail, the agency can usually commence proceedings to prosecute the offender.

Alternative dispute resolution

Going to court to resolve a problem means there is usually a winner and a loser. In some cases the loser is required to pay the winner's costs (although this is not usually the case with the Resource Management and Planning Appeal Tribunal – See [Chapter 14](#)).

Usually it also means the involvement of lawyers, and the feeling of loss of control as legal processes and concepts take over the dispute. In recent years this has resulted in an increasing demand for less adversarial ways of resolving conflicts.

What is mediation?

This is a process in which the parties, together with a neutral, trained third person (the 'mediator'), identify and isolate the issues that are in dispute, develop options to address these issues,



consider alternatives and reach a mutual agreement that will meet all, or some, the needs of both parties.

Mediators act as facilitators to help you find solutions yourselves but, unlike a magistrate or the Tribunal, they don't decide who is right or wrong, nor make decisions for you.

The process of mediation/negotiation forces the parties to clearly define their issues, evidence, arguments and 'bottom line' stance. The process will not work if parties are reliant on broad statements, emotive arguments and anecdotal evidence.

Negotiation / mediation can take place at any time, but it is best where it happens soon after the conflict arises.

By addressing the conflict early, mediation may prevent you resorting to litigation. Mediated settlements are generally more effective as all parties have had input into the final agreement.

The primary reason for using these methods is that parties have more control over the process of settlement rather than being confined by the rules of a court proceeding.

Know what you want!

When entering into negotiations you / your group must first decide if you are actually prepared to negotiate on the issue and will abide by the decision reached. You should then agree on the options you will work from:

- the best possible outcome from your perspective
- outcomes you would be happy with, even if they are not ideal
- the 'bottom line', below which you will call off the negotiations.



If you are negotiating on behalf of a group, make sure the group reaches agreement on what it wants before negotiations begin. It is important to keep everyone aware and up to date with information as the process develops.

You should also look at the other side's interests and opinions. Try to understand their position and be prepared for the arguments they will put forward. This will also enable you to propose more effective solutions, which both sides can agree to.

At the end of the mediation process (if you are successful in brokering a solution) a written agreement is usually drawn up. This is not necessarily legally binding. However, if the parties agree, you can get a lawyer to make the agreement binding.

Should I go to court or try mediation?

Keep in mind that the [Resource Management and Planning Appeal Tribunal](#) encourages mediation in the first instance and provides a trained mediator for matters before the Tribunal

➡ Go to [Chapter 14](#) to see how the Tribunal works.

In some cases using legal avenues is the most appropriate way to sort out a problem. However, most people find mediation a very helpful way to solve a problem. Even if it doesn't resolve everything, mediation can help to reduce the number of issues in dispute. If mediation doesn't work, you can still consider court options in future.

🕒 If you decide to try mediation, be careful not to miss time limits for commencing legal action.

Mediation is your most appropriate option if:

- you want to sort out the problem as peacefully and effectively as possible. This can be particularly important in a neighbourhood situation, as you will all have to live together in future.

- your problem is not really 'legal', but based on policy issues or different views about what level of pollution (such as noise / smoke) you should have to put up with.
- you don't want the problem to escalate so much that it has to go to court
- you can't (or don't want to) pay the costs associated with court proceedings.

Who offers mediation in Tasmania?

Positive Solutions is a useful mediation service with experience in planning matters and neighbourhood disputes. You can contact them for an appointment on 03 6223 5612.

You can find out how to contact other mediation services from the Yellow Pages. You can also contact the [Hobart Community Legal Service](#), [Launceston Community Legal Centre](#) or [EDO Tasmania](#) for a referral.

13.4 Importance of lobbying

Turn every stone!

Don't rely on legal processes alone to win your case. You will need to use a mix of strategies in order to be successful in most environmental cases.

In conjunction with using legal processes, it can be important to lobby certain influential people.

These can include:

- your local councillors and members of parliament
- ministers and shadow ministers
- departmental heads
- parliamentary committees
- your local community

Sometimes it may also be necessary to draw public attention to your issue by using the media. This can alert other people in the community to the problem.

How to run effective publicity campaigns differs depending on the issues and is beyond the scope of this Handbook. However, there are a number of [useful resources](#) available to help plan your campaign.

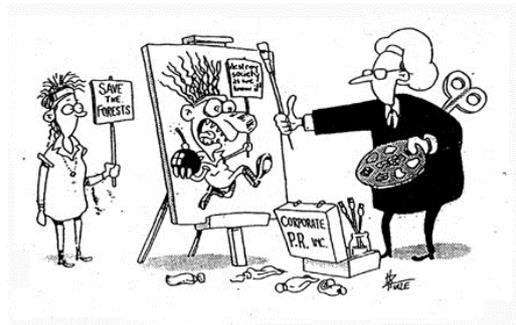
Protect yourself

When defending the environment, it is easy to become a victim yourself!

Increasingly, environmental advocates are being subjected to intimidation and harassment, including being sued in court on minimal grounds (known as "SLAPP suits"). The aim of such litigation is to disable campaigning efforts and discourage further action.

Even if such charges ultimately fail, they can impose considerable stress and costs on the victim.

A full discussion of these issues is beyond the scope of this Handbook. However, there are now some good books available which describe organised anti-environmental harassment techniques and how to avoid them (see Chapter 17 for a list of publications and contacts).



Be aware of legal risks

Everyone has the right to protest, but this right is subject to legal limits. Before you protest, you should check what your rights are and be aware of potential risks to yourself and other participants.

This is particularly important if you are planning to protest on private property or, for instance, a designated public forest.

13.5 Defamation versus free speech

As in all discussion of public issues, individuals can protect themselves from defamatory statements. Environmental issues are no different, so it is very important to avoid saying or writing anything defamatory which could trigger a legal action against you.

When is a statement defamatory?

Laws of defamation are rather complex. However, anything you say or write may be defamatory if it conveys a meaning, whether explicit or implied, which tends to:

- lower a person's reputation in the eyes of ordinary reasonable members of the community
- lead people to ridicule, avoid or despise the person
- injure the person's reputation in their trade or their profession

Who can be defamed?

Previously, any person, statutory corporation, trade union or incorporated association could claim the right to protect their reputation using the defamation laws.

In Tasmania, recent changes now mean that most corporations cannot take action for defamation. However, not-for-profit corporations and corporations which employ less than 10 people may still have an action in defamation in relation to published statements about the organisation.

Three tips to remember:

1. In Tasmania, in order to claim the defence of justification, you need to prove that the statement is "substantially true". Statements of opinion must be based on 'proper material' and be in the public interest.
2. Play the issue, not the person. Avoid risk of defamation by always referring to issues, not a person's personal involvement.
3. In legal terms, you have 'published' a statement when you say it, write it on Facebook or a letter to the editor or distribute a leaflet.

→ Further information about defamation is available in the [Tasmanian Law Handbook](#).

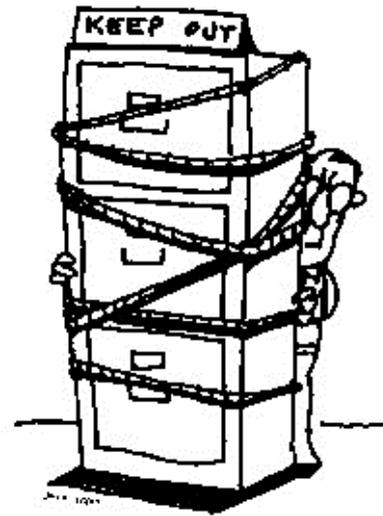


13.6 Accessing Government Information

On 1 July 2010, the *Right to Information Act 2009* replaced the *Freedom of Information Act 1991* in Tasmania. This section explains the procedure for accessing information from government departments and agencies under the new legislation. The Ombudsman has released Guidelines and a Manual regarding the application and operation of the *Right to Information Act 2009*.

→ The *Guidelines* and the *Manual* are available on the [Ombudsman's website](#).

! There is also a *Commonwealth Freedom of Information Act*, which is relevant to applications for information held by federal government agencies.



Your legal 'right' to information

Government agencies, Ministers and local councils hold an enormous amount of information in many forms. You may wish to obtain copies of information held by the government – such as reports, policies, submissions, manuals or rules – or information about the operations of the government for a variety of purposes. Freedom of information laws, such as the *Right to Information Act*, are designed to give citizens a legal basis and framework for demanding access to that information. Making this information available improves governance by making the government more accountable and increasing citizens' ability to participate in decision making.

The *Right to Information Act 2009 (RTI Act)* aims to achieve more open government by emphasising the idea of a right to information and encouraging pro-active disclosure by government agencies. Under s.7 of the RTI Act, a person has a “legally enforceable right” to be provided with information in the possession of a public authority or Minister unless that information falls under one of the exemptions provided in the Act.

You can request information from any state government department, minister or statutory body, including local councils. The RTI Act does not apply to the private sector, however it does apply to state or council owned businesses (including regional water authorities), government business enterprises (such as Forestry Tasmania) and corporate bodies established under legislation for a public purpose. Some information can also be obtained in relation to private organisations that receive funding from the government or perform a public function.

Accessing information

The RTI Act provides that the government may disclose information in one of four ways:

- **Required disclosure** refers to information that a public authority or Minister must disclose according to the RTI Act or any other law (such as annual reports).
- **Routine disclosure** refers to information that the public authority or Minister discloses voluntarily but not in relation to any particular enquiry (for example, information about draft policies on a Council website).
- **Active disclosure** refers to information disclosed in response to a particular request, but without any formal application under the RTI Act (for example, information provided after an informal request is made).
- **Assessed disclosure** refers to information disclosed in response to a formal application under the RTI Act.

Unlike the situation under the *Freedom of Information Act*, an application for information is now a last resort. Agencies are encouraged to release information more freely, without insisting on the formal process being followed.

As a first step, you should contact the RTI officer in the government agency that you think holds the information you need and make a request. These requests for “active disclosure” do not need to take any particular form – you might ask in person, by telephone, or email – but it is always a good idea to confirm a request in writing.

The agency may provide the information you have requested, provide some of the information you have requested or can claim that the information is exempt.

If you are not satisfied with the response from the agency, you can lodge a formal application for an “assessed disclosure”. These applications must be made in writing - agencies will generally have an RTI application form on their website.

🗨️ Public authorities are required to assist you to make a valid application, so if you have any questions about the application form, contact the relevant RTI officer.

What information is available?

You have a broad right of access to records held by government agencies (including documents, emails, disks, maps, plans, tapes, images or messages). However, you do not have the right to access **all** information.

Sections 25 – 32 of the RTI Act set out some categories of information that are exempt from disclosure. These relate to certain types of internal government deliberations (such as briefing papers to Ministers and Cabinet documents), information affecting state or national security and information that would prejudice investigations or the administration of justice.

Sections 34 – 42 provide additional categories of information that may be exempt, but only if disclosure would be “contrary to the public interest.” These include some internal government deliberations, personal information and information likely to affect the state economy or natural, cultural or heritage resources. Schedule 1 to the RTI Act sets out some matters that will be relevant to an assessment of whether disclosure is in the ‘public interest’. Schedule 2 also contains a list of matters that will **not** be relevant to this assessment.

If a document contains information about someone’s personal affairs, the relevant agency must consult that person before deciding if the information should be released.

Most exemptions exist to facilitate the proper working of government. However, in some situations a government or government agency may use these exemptions to conceal information – by taking the issue to Cabinet, for instance. If you are dissatisfied with the reasons for non-disclosure, then you may appeal (see below).

🗨️ Agencies may also refuse an application on the basis that it is a repeat or vexatious application. The Ombudsman has released [Guidelines and a Manual](#) outlining when an application will be considered ‘vexatious’.

🔴* **Time limits**

Applications must be responded to as soon as practicable after an assessment has been made, but generally no later than 20 working days. If an application needs to be refined or directed to another agency, the applicant should be consulted about this within 10 working days.

Sometimes it will be necessary for the public authority or Minister to consult with a third party about the release of information (for example when it involves personal information). The time limit for responding to an application can be extended by up to 20 working days to allow this to happen.

🗨️ Requesting information under the RTI Act may be too slow in some situations where information is needed in a hurry, such as when an appeal must be lodged.

How is information provided?

Information may be provided in the following ways:

- you may be able to inspect the record or listen to tapes etc
- you may receive photocopies or a transcript of the record

Where a document contains both exempt and non-exempt information, a copy of the document can be supplied with the exempt information blanked out (this is sometimes called "redacted").

You will need to discuss the format in which you wish to receive information with the public authority.

How much does an RTI application cost?

There are no charges for "active disclosures", so in most cases obtaining information should not cost you anything.

If you do need to apply for an "assessed disclosure", there is an application fee (currently \$34.50). However, unlike the *FOI Act*, there are no additional fees for copying documents.

The application fee may be waived if you:

- have financial difficulties;
- are a Member of Parliament acting in connection with your official duty;
- intend to use the information for a purpose that is in the general public interest.

Internal and External Reviews

If you are unhappy with the RTI officer's decision, the first step is to request an internal review. You will need to make this request in writing to the 'principal officer' of the agency. The "principal officer" may be the CEO of a government business enterprise, the General Manager of Council or the Head of Agency for the relevant government department.

 **Applications for review must be made within 20 working days of receiving notice of the decision.**

The principal officer must arrange for a new assessment to be conducted by a different employee of the public authority as soon as practicable. You will be advised of the decision made by the internal review officer.

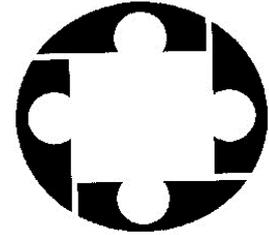
If you are unhappy with the outcome of this internal review, or have not received an answer within 15 working days, you may apply to the Ombudsman for an external review (s.44). The request must be in writing and should include your original application, any decisions made and all relevant correspondence between you and the agency or Minister. You should read the Ombudsman's Review Guidelines before applying for a review.

 You can generally get better results in an RTI review application if you are familiar with the [Right to Information Act 2009](#) (including the exemptions) and the [Ombudsman's Guidelines](#).

 Keep a file recording all your communications with government officers about your RTI request. These records will be invaluable should you need to prove that a department has treated you unfairly or not complied with the Act.

13.7 Using the Ombudsman

If you have concerns about the administrative actions of a government authority (that is, you believe the agency has acted incorrectly or not taken action it should have) you can lodge a complaint with the Ombudsman.



The [Ombudsman](#) will investigate your complaint and, if it is justified, recommend an equitable solution to the problem.

 The Ombudsman does **not** act as an advocate for you. The role of the office is to carry out investigations independently and impartially.

Tasmanians have 'one-stop-shopping'

The Tasmanian Ombudsman is also a delegate for the Commonwealth Ombudsman. This means that if you have a complaint against any government department or authority – whether Commonwealth, State or local – you need only contact one office.

Who can complain?

Anyone – individuals, organisations or incorporated bodies – can make a complaint to the Ombudsman.

How to make a complaint

You should first try to resolve your problem by talking or writing to the agency concerned. If you have not already done so, the Ombudsman will usually refer you back to the agency.

The Ombudsman aims to make it as simple and as easy as possible for a person to air a grievance. You are advised to keep good records and put your concerns in writing. The Ombudsman's staff will provide assistance where necessary.

13.8 The Integrity Commission



The Tasmanian Integrity Commission was established in 2010 to improve the integrity of government and public authorities in Tasmania. While the main focus of the Commission is on educating public officials and preventing misconduct, the Commission also handles complaints from members of the public regarding misconduct by a public officer (such as a government officer, police officer, general manager of a local council or a Minister).

Misconduct may occur if a public officer acts dishonestly (for example, making false statements or hiding evidence that may undermine their decision) or improperly (for example, accepting a bribe).

The Integrity Commission does **not** deal with any actions of:

- a Magistrate or Supreme Court Judge;
- the Resource Management and Planning Appeal Tribunal;
- employees of private companies and businesses;
- a Member of Parliament during proceedings in Parliament;
- lawyers in private practice.

Making a complaint

You can make a complaint by writing to the Integrity Commission outlining your concerns. The complaint does not have to be on the suggested form, but **must** be in writing.

 You can download a complaint form from the Integrity Commission website.

 You can make an anonymous complaint to the Integrity Commission. However, people are encouraged to provide their details, so that the Commission can contact you again in the course of their investigation.

How will the Commission deal with my complaint?

After receiving a complaint, the Integrity Commission will:

1. Decide whether the complaint relates to a matter that the Commission has power to investigate. If not, the complaint may be referred on to a more appropriate government department.
2. Decide whether to investigate the complaint. Even if the issue is technically within its powers, the Commission may decide that it would not be productive to deal with the matter because the misconduct in question is not serious enough, happened too long ago or has been adequately dealt with by other agencies.
3. The Commission may refer the complaint to another agency for further investigation and monitor how the investigation goes. Alternatively, the Commission may investigate the matter itself.
4. The Commission will update you on the progress of your complaint.