

Policy

Assessing requirements for further information or a document

Exhibited Animals Act 2015

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1 Policy statement

Biosecurity Queensland will assess requirements for further information (RFI) under the *Exhibited Animals Act 2015 (Act)*, against criteria set by the Act and as necessary for efficient and effective administration.

The department will work closely with applicants to assist in ensuring applications and amendments for authorities are completed with as much information as possible to support the chief executive in making a decision.

All interactions with clients will be undertaken in a professional and respectful manner, and the department expects this is reciprocated. If someone becomes disrespectful during the RFI process, either verbally or in written statements, an assessor will discontinue the assessment process. The application may be deemed withdrawn or forwarded to the delegate for decision without further consultation with the applicant.

2 Background and context

The Act provides for exhibiting and dealing with exhibited animals and ensures the relevant risks and relevant adverse effects associated with exhibiting and dealing with exhibited animals are prevented or minimised.

The purposes of the Act are achieved by, amongst other things, requiring that authorities be obtained to allow particular animals to be exhibited. The Act primarily provides for

- an exhibition licence to exhibit and deal with animals within Queensland
- an interstate exhibitors permit to temporarily exhibit and deal with animals within Queensland
- an accreditation to create facility reports on behalf of an exhibition licence holder for submission with a renewal application under the Act.

The application for an exhibition licence or an interstate exhibitors permit must, amongst other things, be accompanied by a management plan detailing sufficient information in accordance with section 37(2) to (4) of the Act to enable the chief executive to make a decision on the application.

If insufficient detail is provided by the applicant to enable a decision to be made, the applicant may, by written notice, be forwarded a RFI to provide additional information or a document.

The RFI process is not a mandatory requirement under the Act and Biosecurity Queensland staff may choose not to initiate the RFI process. The decision not to initiate the RFI process is at the discretion of the assessment officer and the delegate.

3 Scope

The scope of this Policy is assessing an RFI to enable a recommendation to be made to the chief executive on an applicant's suitability for an authority, or for an amendment to an authority.

4 Key principles

Section 54(1) of the Act provides that before deciding an application for an authority, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within a reasonable stated period of at least 30¹ days, further information or a document the chief executive reasonably requires to decide the application.

¹ The legal meaning of 'days' under the Act should be interpreted to be calendar days not business days.

Under section 54(3) the application is taken to have been withdrawn if, within the stated period, the applicant does not fully comply with the requirement. To fully comply with the RFI an applicant must address all of the information requested in a complete and proper manner.

There can be no further RFIs issued by the department under section 54(1) if the applicant does not respond fully to the first RFI.

The following are examples that would not be considered fully responding to an RFI:

- not addressing all of the requested information
- information not received by the due date stipulated in the RFI
- replies that infer department staff are to identify the risks or similar statements
- making statements such as the department has no right to request the information, the information is industry in confidence, or similar statements
- making disparaging comments towards department staff
- stating the information has already been submitted, or similar statements
- simply referring to a standard or code when detailed information has been requested
- submission of the same information already forwarded to the department when further detailed information has been requested.

Due to the effect of section 54(3) deeming the application withdrawn, the department can only issue a further RFI to an applicant if it is in relation to different information than that already requested. If an RFI is issued, it must be issued within 30 days after the initial application was received, as per section 54(4). On receipt of RFI information, the department will contact the applicant to clarify the information provided in a response to a RFI, if clarification is required.

If an applicant fails to respond within the requested time, or does not fully respond to an RFI, the Act provides that the application is deemed to have been withdrawn by the applicant. In this case no information notice for the decision (Refusal Notice) is required to be sent; however, the department will notify the applicant that they have taken to have withdrawn their application on account that they have not either responded within the time provided or not responded fully. Applications deemed withdrawn are not provided with an opportunity to have the decision reviewed via the internal review decision application process.

5 Deciding an application

The chief executive must decide an application within 40² days of receipt of an application.

However, if the chief executive has required the applicant to give further information or a document under section 54(1), the chief executive must decide the application within 40 days after a response to the further information or document is received.

If the chief executive fails to make a decision within 40 days of receipt of an application, it is taken that the chief executive has refused to grant the application. In addition, an application is deemed refused under section 62 if the chief executive fails to make a decision within 40 days after a response to an RFI is received.

² The legal meaning of 'days' under the Act should be interpreted to be calendar days not business days.

Note section 62(2)(a) of the Act in this regard. This means that the 40 day timeframe runs from the time a response to a RFI is received, whether it is the first or a subsequent RFI, provided they were issued in accordance with section 54(1) of the Act.

If the chief executive is taken to have refused to grant the application, the applicant must be given an information notice detailing the decision by the chief executive.

6 Responsibilities and accountabilities

The Exhibited Animals team, in DAF, is responsible for assessing applications submitted under the Act.

Applicants are responsible for providing complete, true and accurate information in their applications that meet the requirements of this policy and the Act.

7 Human rights considerations

This policy has been reviewed to ensure actions and decisions under this policy can be made in a way that is compatible with the *Human Rights Act 2019*.

8 Related and reference documents

Related reference material including defined terms in the Act and the Exhibited Animals Regulation 2016 may be acquired from the department's website at <https://www.business.qld.gov.au/>

Additional reference documents include

- *Exhibited Animals Regulation 2016*
- *Exhibited Animals Act 2015*
- *Additional policy: [Qld Government Publication Portal](#)*