

Information privacy guide

The *Information Privacy Act 2009* (Qld) (IP Act) regulates how public sector agencies, including the Department of Child Safety, Youth and Women (the department) must collect, manage, use and disclose personal information.

This document is produced to meet the department's obligations under Information Privacy Principle 5 (IPP5) to take reasonable steps to ensure that people can find out:

- if the agency controls any documents containing personal information
- the type of personal information in those documents
- the main purposes for which that personal information is collected, held and used
- how a person may access or amend their own personal information.

1. What are the department's obligations under the IP Act?

The IP Act:

- creates an obligation on the department to comply with 11 *Information Privacy Principles* (IPPs)
- regulates when personal information may be transferred outside of Australia
- outlines the obligations regarding contracted service providers.

Collectively the IPPs and obligations are referred to as the 'privacy principles'.

1.1 What is personal information?

Personal information is defined in section 12 of the IP Act as:

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.

Personal information may be stored in a variety of media including paper, an electronic database, correspondence, photographic or video images, digital format and audiotape.

1.2 What are the Information Privacy Principles?

The 11 IPPs set out the department's obligations for how personal information must be managed. The IPPs deal with:

- IPP 1: Collection of personal information (lawful and fair)
- IPP 2: Collection of personal information (requested from individual)
- IPP 3: Collection of personal information (relevance etc.)
- IPP 4: Storage and security of personal information
- IPP 5: Providing Information about documents containing personal information
- IPP 6: Access to documents containing personal information
- IPP 7: Amendment of documents containing personal information¹
- IPP 8: Checking of accuracy etc. of personal information before use by agency
- IPP 9: Use of Personal information only for relevant purposes
- IPP 10: Limits on use of personal information
- IPP 11: Limits on disclosure.

1.3 Obligations regarding contracted service providers

Sections 34-37 of the IP Act regulate how personal information is managed when the department enters into a contract or other arrangement for the provision of services

¹ Chapter 3 of the IP Act outlines the process for individuals to apply for access or to amend their personal information.

associated with the performance of any of the department's functions, where those services deal with personal information.

In particular, the department must take all reasonable steps to bind the service provider to comply with the relevant privacy principles in the IP Act in discharging its obligations under the service arrangement. If the department does not take such reasonable steps to bind the service provider, the contractual obligations will attach to the department.

1.4 Transferring personal information overseas

The IP Act also regulates the transfer of personal information to entities outside of Australia. This issue is relevant in the context of personal information of clients, service providers, staff and other persons involved with the department, being transmitted or held on computer networks and servers outside Australia.

Under the IP Act, the department may transfer personal information outside Australia only if it complies with the various requirements set out in section 33 of the IP Act, including:

- the person has agreed to the transfer of their personal information, or
- the department is satisfied that the information will be subject to privacy protections that are substantially similar to the IPPs, or
- there are reasonable grounds to believe the transfer is necessary in order to prevent or lessen a serious threat to someone's life, health, or safety.

1.5 Documents to which the IPPs do not apply

There are some documents to which the privacy principles do not apply, including:

- generally available publications
- documents held in a library, art gallery or museum for reference, study or exhibition
- public records under the *Public Records Act 2002* in the custody of Queensland State Archives that are not in a restricted access period under that Act
- a letter, or anything else, while it is being transmitted by post
- a document to the extent it contains information relating to—
 - covert activity under the *Police Powers and Responsibilities Act 2000* and the *Telecommunications (Interception and Access) Act 1979* (Cth)
 - witness protection under the *Witness Protection Act 2000*
 - disciplinary actions and misconduct resulting from a complaint under the *Police Service Administration Act 1990*, a complaint or investigation under the *Crime and Corruption Act 2001* or public interest disclosures under the *Public Interest Disclosure Act 2010*
 - matters subject to the Cabinet and Executive Council exemption in the *Right to Information Act 2009* (RTI Act)
 - commissions of inquiry.

2. About the department

The department works to strengthen and protect the wellbeing of Queensland children, young people and women through three service areas:

- Child and Family Services
- Office of the Child and Family Official Solicitor
- Office for Women.

The department's service delivery emphasis is on the rights and safety of these Queenslanders.

The department administers (or jointly administers) legislation relating to the delivery of its services and may deal with personal information when doing so. Key legislation includes:

- [Adoption Act 2009](#)
- [Child Protection Act 1999](#)
- [Child Protection \(International Measures\) Act 2003](#)
- [Domestic and Family Violence Protection Act 2012](#)

2.1 What areas of the department collect personal information?

The following areas of the department collect personal information for the purposes of their service delivery, regulatory, legislative and administrative activities:

- **Child and family services** (including adoption, child protection, family support and foster care)
- **Office of the Child and Family Official Solicitor** (including court proceedings)
- **National Redress Scheme** (to acknowledge and support people who experienced sexual abuse in an institutional setting)
- **Corporate services** (including human resources, staff supports, finance, procurement, legal advice, audits and compliance, and information access).

More details about the functions and services provided by the above areas of the department are found in the **Appendix** to this guide.

2.2 What types of personal information are collected and held by the department?

The department collects and manages a wide range of personal information from people as part of performing its functions, including information about:

- clients and their family members
- departmental employees, including prospective employees, and contractors
- representatives and employees of non-government service providers
- representatives of organisations, local governments and members of ministerial advisory committees (that may be constituted from time to time)
- vendors and service providers.

The types of personal information collected may include:

- name and contact details
- date of birth

- signature
- photograph
- financial/bank details including, Centrelink and Veteran Affairs information
- unique identifying numbers (i.e. tax file number, drivers licence number etc.)
- cultural background
- relationship details and family circumstances
- family history
- medical/health/diagnostic information
- educational needs and service provision needs
- adoption information
- occupation and employment history
- details of office bearers in funded organisations (i.e. names)
- criminal history
- personal information of persons making complaints, subjects of complaints, and personal information related to complaint investigation, such as witnesses
- recruitment information, such as applications for employment with the department, records relating to referee checks, interview notes and selection panel assessments
- staff members' personal information received or collected in the course of conducting human resource management functions (e.g. leave entitlements, bank account details, superannuation information, pay scale)
- personal information recorded by camera surveillance systems or electronic monitoring devices in departmental premises, such as at service centre counters.

2.3 Website and emails

When you visit the department's website, our web measurement tool and internet service provider records anonymous information for statistical purposes only, including:

- the type of browser, computer platform and screen resolution you are using
- your traffic patterns through our site, such as the—
 - pages you accessed and documents downloaded
 - previous page you visited prior to accessing our site
 - internet address of the server accessing our site.

Our web measurement software uses cookies when collecting this information. However, no attempt is made or will be made to identify you, or to use or disclose your personal information, except where required by a law.

Our internet service provider or information technology staff may monitor email traffic for system trouble shooting and maintenance purposes only. We will not add your name and address details to a mailing list, nor will we disclose these details to third parties without your consent, unless required by law.

2.4 Camera surveillance systems

The department uses camera surveillance systems in some locations. Generally this is done for safety and security reasons. There will be signs advising you if camera surveillance is in use.

If you wish to obtain a copy of footage which may have include your image, you should notify the RTI Team as soon as possible, as the footage is generally only retained for a period of approximately 30 days. After that time, the recording is written over and generally cannot be retrieved. It will usually be necessary to make a formal application under *Right to Information Act 2009* or the IP Act for access to camera surveillance footage.

How to apply for information is discussed at paragraph 4 below.

3. Why does the department collect personal information?

The department collects personal information to fulfil its purpose, perform its functions, and undertake its regulatory, legislative and administrative activities: It also collects personal information of a human resources nature of its staff and job applicants.

The department also holds records and registers that may contain personal information about contracted service providers, consultants, contractors, financial management, community recovery grants and policy consultations.

Collection notices

When collecting personal information from individuals, the department takes reasonable steps to explain to those people why their personal information is being collected, whether any law requires its collection, how it will be used and disclosed, including any other entities to which it may be disclosed. This information may be given in writing or verbally.

Use and disclosure of personal information

The department collects personal information to perform its functions and to undertake its administrative and statutory responsibilities. The department will only use and disclose the information for that purpose, unless one of the exceptions applies.

For example, the department may use or disclose personal information for a purpose other than that for which it was collected in the following situations:

- the person from whom the personal information was collected is *reasonably likely to have been aware* under IPP2 that it is our usual practice to disclose that type of information to a particular person or entity, e.g. to brief a funded service provider about the child safety support needs of a departmental client
- the person has expressly or impliedly consented to the proposed use or disclosure
- the use or disclosure is *authorised or required by law*, e.g. in the investigation of a criminal offence (such as the suspected abuse of a child) or in response to a court subpoena relating to a court action in which the department is involved
- where the information will be used for a purpose that is *directly related* to the purpose for which it was collected, e.g. providing personal information about a child in care to a foster parent to enable proper care of the child
- we are satisfied on reasonable grounds that the use or disclosure is necessary to lessen or prevent a *serious threat to the life, health, safety or welfare* of an individual or the public, e.g. providing information to the police about a missing child in care to help to locate the child
- we are satisfied on reasonable grounds that the use or disclosure is necessary for *law enforcement* processes, e.g. to apprehend a parent unlawfully removing a child from the state
- the use or disclosure is for *research* in the public interest and certain requirements are met.

4. Access to and amendment of personal information held by the department

Except where access is restricted by law, the IP Act allows an individual to request access to their personal information and to amend their own personal information if it is inaccurate, incomplete, out of date or misleading. Rights of access and amendment are dealt with in IPPs 6 and 7 and Chapter 3 of the IP Act and Chapter 3 of the RTI Act.

Personal information cannot be accessed by others, except as provided for by the IP Act and the RTI Act, or as required or authorised by other legislation.

Information held by the department may be accessed in different ways, including applications for administrative access or formal applications for access under the IP Act or RTI Act.

4.1 Administrative access

In certain cases, you can request access to your own personal information without the need to apply under the RTI Act or IP Act. For example, the department has a number of administrative release schemes, details of which are available at <https://www.csyw.qld.gov.au/about-us/right-information#s-3-administrative-release>

As part of that process, we will require evidence of your identity to ensure that your personal information is not disclosed inappropriately.

4.2 Applications for access

However, in certain situations administrative access will not be appropriate, for instance if your personal information is interwoven with somebody else's personal information. In such cases, a formal application under the RTI or IP Act will be required.

Where the information sought is solely your own personal information, you may apply under the IP Act. If you are applying for non-personal information or if your own information is intertwined with someone else's personal information, you must apply under the RTI Act.

The department's Information Access and Amendment Unit (contact information below) can inform you about how to obtain access to departmental information, including your personal information, or to request amendment of your own personal information.

There are no application fees or charges for access to personal information under the IP Act.

For an application for access to be valid it **must**:

- be made in the prescribed form, either online (see link below) or in hard copy
- give sufficient information concerning the document/s you are seeking to enable the documents to be identified
- be accompanied by evidence of your identity
- provide an address (not email) to which notices under the IP Act can be sent.

You may apply directly to the department by downloading the [Right to Information and Information Privacy access application form](#) and sending it to the Information Access and Amendment Unit (contact information below).

Evidence of your identity must be provided if any of the documents contain your personal information. You should include certified copies of appropriate identification with your access application.

Alternatively, you can apply using the Queensland Government's [online application for access form](#).

4.3 Amending your personal information

If you consider that the information the department holds about you is incorrect, misleading, incomplete or out of date, you may apply under the IP Act to have it amended. You will need to complete the [Personal Information Amendment Application](#) form.

If you have any queries about access or amendment, please contact the Information Access and Amendment Unit to discuss your concerns.

5. Privacy breaches and complaints

Despite our best efforts, privacy breaches may occur. A **privacy breach** occurs when personal information is not handled in accordance with the IP Act. It will generally involve unauthorised access to, or collection, use or disclosure of, personal information. A privacy breach may be accidental or intentional. It may be a one off occurrence or due to a breakdown in procedures.

A **privacy complaint** arises when a person expresses dissatisfaction with the department's personal information handling practices, which may be a breach of the IPPs or the IP Act.

5.1 What does the department do if it becomes aware of a privacy breach?

If the department becomes aware of a privacy breach or a suspected breach, we immediately enact our privacy breach protocol. In particular, we take steps to:

- contain the breach and make a preliminary assessment
- evaluate the risks associated with the breach
- assess whether affected persons should be notified
- review what occurred and what action can be taken to prevent it happening again.

5.2 Complaint and review procedures

A privacy breach may lead to a **privacy complaint**.

If you believe that the department has not dealt with your personal information in accordance with the IP Act, you may telephone or email the Information Privacy team (see contact information below) to discuss your concerns, or you can make a privacy complaint.

5.3 Complaints to the department

Privacy complaints made to the department must be made in writing using the [Privacy complaint form](#) and give particulars of the act or practice about which you wish to complain. We will require evidence of your identity, to ensure that your personal information is not disclosed inappropriately.

Privacy complaints should be marked 'Private and confidential' and forwarded to the address provided at the end of this guide. Click this link for more information about the department's [complaint process](#).

5.4 Complaints to the Office of the Information Commissioner

You may make a privacy complaint to the Office of the Information Commissioner if:

- at least 45 business days have elapsed since your complaint was made to the department; and
- you have not received a response from the department, or you have received a response but consider the response is not an adequate response.

The Information Commissioner will not deal with your complaint unless you have first made a complaint to the department.

More information about the Information Commissioner's privacy complaints process is available on the Information Commissioner's website:

www.oic.qld.gov.au/about/privacy/privacy-complaints

6. Contact details

Privacy

For general enquiries concerning privacy related matters, including complaints, contact:

Privacy Contact Officer, Information Privacy Team—

Telephone: (07) 3097 5609

Email: privacy@csyw.qld.gov.au

Post: See the general postal address below

Information access and amendment

For more information concerning applications for access to or amendment of personal information, contact:

Information Access and Amendment Unit—

Telephone: (07) 3097 5605 or 1800 809 078 (Free call)

Email: rti@csyw.qld.gov.au

Post: See the general postal address below

General postal address: Right to Information, Information Privacy and Redress
Department of Child Safety, Youth and Women
Locked Bag 3405
Brisbane QLD 4001

Appendix

Child and family services (adoption, child protection, family support, foster care)

Child and family services leads and facilitates the delivery of family support, child protection and adoption services. It provides services that support families to safely care for their children. It delivers these services directly and through funded non-government organisations. It also provides out-of-home care and adoption services for children and young people not able to be cared for by their families.

Office of the Child and Family Official Solicitor

The Office of the Child and Family Official Solicitor (OCFOS) is an in-house legal unit within the Department of Child Safety, Youth and Women. Key responsibilities of OCFOS include:

- providing high quality legal advice and support to child safety service centres (CSSCs) in relation to the chief executive's statutory functions relating to the protection of children
- applying for emergency orders such as temporary assessment orders (TAO), court assessment orders (CAO) and temporary custody orders (TCO). This may include assisting to prepare applications, preparing submissions and appearing on matters, preparing case outlines, and assisting with appeals
- working with CSSCs to prepare briefs of evidence for child protection matters that are being referred to the Director of Child Protection Litigation (DCPL)
- working in partnership with the DCPL to prepare matters for filing in the Children's Court and in the on-going review and management of those matters.

National Redress scheme

As part of the National Redress scheme, the department will receive requests for information from the Commonwealth. The Commonwealth will provide information to the department about people who have made an application to the National Redress scheme.

Where it is named as the responsible institution or it holds information relevant to the request for information, the department will collate information from its own records and prepare a response to the Commonwealth.

The department will be the central contact point for the Queensland Government, so it may also receive personal information from other Queensland Government agencies. This will occur when the other agency has been named as a responsible institution or the department believes that the other agency holds information relevant to responding to a request for information from the Commonwealth.

The department may also be responsible for providing a direct personal response to the applicant and facilitating counselling for applicants who choose these options.

Corporate services

Corporate services supports the delivery of these services by providing strategic leadership and direction for the department's corporate systems, policies and practices. Specifically, Corporate services supports departmental staff by delivering learning and development opportunities; equipping them with better technologies; running effective financial, funding and procurement, and human resource systems; providing legal services and advice; reporting and analysing data; undertaking audit, compliance and other reviews; handling complaints, investigations and information access requests; managing our facilities and delivering our capital programs.