

Queensland Government Coordination for the National Redress Scheme for Institutional Child Sexual Abuse

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Introduction

The *Information Privacy Act 2009* (Qld) (IP Act) regulates how public sector agencies, including the Department of Children, Youth Justice and Multicultural Affairs (the department) must manage personal information it collects. The IP Act also provides a right for people to apply for access to and amendment of their personal information.

The department must comply with the Information Privacy Principles (IPPs) in the IP Act. The IPPs specify how personal information is to be collected, stored, accessed, amended, used and disclosed. The IP Act also describes the conditions under which personal information may be transferred outside of Australia and the obligations regarding contracted service providers.

In addition to the privacy obligations in the IP Act, provisions of the *Child Protection Act 1999* (Qld) (CP Act), *Youth Justice Act 1992* (Qld) (YP Act) and other State and Commonwealth legislation place confidentiality obligations on departmental officers that govern how they use and disclose personal information while performing departmental functions.

The department is committed to protecting the privacy of clients as it carries out its functions, including those related to the National Redress Scheme for people who have experienced institutional child sexual abuse (the National Redress Scheme). Privacy and confidentiality obligations apply to all departmental employees.

This Privacy Plan outlines the department's obligations in relation to the collection, storage, use and disclosure of personal information associated with the National Redress Scheme.

What does the department do?

The department works to enable children, young people, women and families to be safe and to thrive, and to prevent and respond to crime, violence, abuse and neglect. It works directly with families and children in need of protection, or who may become in need of protection, and with young people in youth detention.

National Redress Scheme

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended the establishment of a national redress scheme that would provide acknowledgement and support to people who experienced child sexual abuse. The Commonwealth Government established the National Redress Scheme through the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) (the National Redress Act). In April 2018, the Premier of Queensland announced that the Queensland Government would participate in the National Redress Scheme.

The department acknowledges that people who were previously in its care may have experienced child sexual abuse while in care and the Queensland Government has joined the National Redress Scheme to acknowledge and support people who experienced sexual abuse in an institutional setting.

The department is the central contact point responsible for facilitating communication between all participating Queensland government institutions and the Commonwealth. The department coordinates and manages information requests from the Commonwealth and liaises with other Queensland government agencies in relation to all aspects of the National Redress Scheme. As part of the implementation of the National Redress Scheme in Queensland, the department has

developed processes with a strong focus on privacy to ensure that all personal information is handled in accordance with its legislative obligations.

What is personal information?

The IP Act defines ‘Personal information’ 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.

Even if the person is not named, it may be personal information if their identity can be ascertained from the information in conjunction with other readily available pieces of information. Personal information need not be sensitive or confidential.

Personal information may be stored in different formats, including paper, electronic databases, correspondence, photographs, visual images, other digital forms and audiotape.

Collection of personal information for the National Redress Scheme

The department only collects personal information that is necessary for or directly related to its functions or activities. The department must not collect information in a way that is unlawful or unfair or that is unreasonably intrusive. Further, the department takes all reasonable steps to ensure that information it collects is relevant, complete and up to date.

Under the National Redress Scheme, the department receives requests for information from the Commonwealth. When those requests are received, the Commonwealth provides information about people who have made an application to the National Redress Scheme. This will include:

- the applicant’s name and date of birth (from part 1 of the application form)
- the applicant’s experience of abuse (part 2 of the application form)
- the impact of sexual abuse on the applicant’s life (part 3 of the application form).

In accordance with the National Redress Act, the Commonwealth may also provide information to the department for the purpose of seeking advice about the special assessment process for applicants with serious criminal convictions and/or advice about whether the incarcerated person may make a Redress application.

As the central contact point for the Queensland Government, the department also receives personal information from other Queensland Government agencies 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 the Commonwealth’s request for information.

The collection of personal information by the department for the purpose of the National Redress Scheme (whether collected from the Commonwealth or from other agencies) is necessary so it can provide responses to requests for information from the Commonwealth on behalf of the Queensland Government. The collection and disclosure of that information is authorised by Commonwealth and State legislation.

Contracts, licences and outsourcing arrangements

If the department enters into agreements with service providers where personal information is collected, used or disclosed, the department expects that that all personal information collected,

used or disclosed by the service provider is subject to the same protection as it would have been had the department itself performed those services.

When entering into an agreement with a service provider, the department must take reasonable steps to bind the service provider to comply with the Queensland privacy principles. Bound contracted service providers are responsible for all privacy breaches and complaints that arise in the performance of their obligations under the agreement of service.

If the department fails to bind the contracted service provider to comply with the privacy principles, the privacy obligations in relation to that information remain with the department.

Security of personal information

The department takes all necessary steps to protect personal information against loss, unauthorised access, use, modification or disclosure or any other misuse. National Redress Scheme information has been classified using the *Queensland Government Information Security Classification Framework* (QGISCF) and will be managed in accordance with *Information Standard 18*.

Physical and technological security measures are applied commensurate with the sensitivity of the information.

What does the department do with personal information?

The department must not *use* personal information for any purpose other than the purpose for which it was collected unless one of the following exceptions applies:

- the person has expressly or impliedly consented to the proposed use
- it is 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
- the use is authorised or required under a law
- it is satisfied on reasonable grounds that the use or disclosure is necessary for *law enforcement* processes
- where the information will be used for a purpose that is *directly related* to the purpose for which it was collected
- the use or disclosure is for *research* in the public interest and certain requirements are met.

The department may disclose personal information to other Queensland Government agencies and obtain relevant information from those agencies for the purpose of responding to requests for information under the National Redress Act. In addition, it may disclose personal information to the Commonwealth for the purpose of complying with those requests.

The department or other Queensland Government agency may refer allegations of child sexual abuse to the Queensland Police Service to investigate, if they are concerned that the alleged perpetrator may still pose a risk to children, e.g. if they are working with children.

Information the department collects for the purpose of the National Redress Scheme is only used or disclosed in accordance with the IP Act and other Commonwealth and State legislation.

Access to and amendment of personal information

Individuals may request access to their own personal information and it will be provided unless access is restricted by law. Individuals may apply to amend their 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 *Right to Information Act 2009* (RTI Act).

Individuals may access their personal information using one of the department's administrative release schemes, or by applying for access in accordance with Chapter 3 of the IP Act using the [Right to Information and Information Privacy access application form](#).

Individuals can request amendment of their personal information informally or by making a formal application for amendment under section 44 of the IP Act using the [Personal Information Amendment Application](#) form.

The Information Access and Amendment Unit can be contacted as follows:

Telephone: (07) 3097 5605 or 1800 809 078 (freecall)

Email: rti@cyjma.qld.gov.au

Applications should be sent to:

Post: Information Access and Amendment Unit
RTI, Privacy, Records Management and Redress
Department of Children, Youth Justice and Multicultural Affairs
Locked Bag 3405
Brisbane Qld 4001

Privacy awareness

Privacy training

All departmental employees undertake mandatory information privacy training as part of the departmental induction process. In addition, all employees involved in the Queensland Government coordination for the National Redress Scheme undertake additional information privacy and information security training which specifically addresses issues that may arise from our participation in the National Redress Scheme.

Privacy contact officer

As part of the department's commitment to meeting its obligations under the IP Act, it has a privacy contact officer (PCO) network that enables coordinated communication across the department about information privacy and related matters.

The key functions of the privacy contact officer network are to:

- facilitate communication between the Information Privacy team and workgroups about key privacy issues
- facilitate awareness activities, led by the Information Privacy team
- assist the Information Privacy team to coordinate privacy compliance responses, including in response to Office of the Information Commissioner audits
- provide basic privacy advice to represented workgroups, with ongoing support from the Information Privacy team.

A PCO is embedded in the Redress team to ensure privacy considerations are addressed in accordance with legislative obligations.

Privacy breaches and complaints

Privacy breaches

A *privacy breach* occurs when the department fails to comply with its obligations under the IP Act.

When the department becomes aware of a potential privacy breach, the following steps are taken:

- action is taken to contain the breach
- risks are evaluated
- consideration is given to whether affected individuals should be notified about the breach, and
- recommendations are made to prevent a recurrence.

Privacy complaints

A *privacy complaint* is a complaint by an individual about an act or practice of the department (in relation to their own personal information) that may be a breach of the department's obligations under the IP Act.

The department regards effective privacy complaints management as an important part of accountability and customer service that can lead to improved privacy compliance. The department is committed to managing privacy complaints in an accountable, transparent, timely and fair manner.

A person may make a complaint if they believe the department has not complied with the IP Act in relation to their own personal information. A privacy complaint must be submitted by completing the department's Privacy Complaint Form, which is available on its website at <https://www.cyjma.qld.gov.au/privacy>.

The department will assess the complaint and consider whether the privacy breach response protocol should be implemented. The Information Privacy team will assess the issues raised in any privacy complaint and provide a response within 45 business days.

If the complainant is not satisfied with the department's response, they may make a complaint to the Office of the Information Commissioner (OIC).

More information about the Information Commissioner's privacy complaints process is available on the Commissioner's website: www.oic.qld.gov.au/about/privacy/privacy-complaints.

If the complainant is not satisfied with the outcome of the OIC process, they may request that their complaint be referred to the Queensland Civil and Administrative Tribunal (QCAT). More information about the QCAT process is available on their website: www.qcat.qld.gov.au/

Privacy impact assessments

Privacy impact assessments (PIAs) provide an assessment of the privacy impacts of a project or process.

The department routinely undertakes PIAs to ensure that a project or new process embeds privacy into the design, operation and management of IT systems, business practices and departmental culture generally.

Privacy impact assessments were undertaken in relation the following Redress functions:

- case management system
- end-to-end 'Request For Information' process
- delivery of direct personal responses
- agency information sharing portal
- counselling and support procurement and delivery
- *specified advisor* processes in relation to serious offender and incarcerated applicants.

Legislative environment

The department administers or jointly administers the following legislation:

- *Adoption Act 2009*
- *Child Protection Act 1999*
- *Child Protection (International Measures) Act 2003*
- *Youth Justice Act 1992*
- *Young Offenders (interstate Transfer) Act 1987*
- *Multicultural Recognition Act 2016*

With respect to the National Redress Scheme, the department is subject to the following legislation:

- *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*
- *National Redress Scheme for Institutional Child Sexual Abuse Rules 2018 (Cth)*
- *National Redress Scheme for Institutional Child Sexual Abuse Declaration 2018 (Cth).*
- *National Redress Scheme for Institutional Child Sexual Abuse Framework 2018 (Cth).*
- *National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018 (Cth).*
- *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018 (Qld)*

The department is subject to other legislation governing public sector agencies, such as:

- *Right to Information Act 2009*
- *Information Privacy Act 2009*
- *Financial Accountability Act 2009*
- *Auditor General Act 2009*
- *Public Records Act 2002.*
- *Public Service Act 2008*

The department is also subject to other legislation and instruments (such as court orders and subpoenas), which may require it to provide information to external organisations.

Enquiries

If you have any questions about privacy or the department's handling of your personal information, please contact a member of the Information Privacy team on (07) 3097 5609 or privacy@cyjma.qld.gov.au.