

Information Privacy Guide

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 collect, manage, use and disclose personal information.

This document is prepared in compliance with the department's obligation under Information Privacy Principle (IPP) 5 to take reasonable steps to ensure that people can find out:

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

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

The IP Act:

- creates an obligation on the department to comply with 11 IPPs
- regulates when personal information may be transferred outside of Australia, and
- outlines the department's obligations regarding contracted service providers.

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

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 many formats, including hard copy (e.g. paper, photograph, video/audiotape) or electronic (e.g. in an electronic database or digital format).

What are the IPPs?

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 information
- IPP 8: Checking of accuracy etc. of personal information before use by agency
- IPP 9: Use of Personal information only for relevant purpose
- IPP 10: Limits on use of personal information
- IPP 11: Limits on disclosure

Obligations regarding contracted service providers

Where the department enters into a contract or other arrangement for the provision of services relating to the performance of departmental functions which deal with personal information, the department must take all reasonable steps to bind the service provider to comply with the privacy principles. If it does not do so, the department may be liable for any privacy breaches by the service provider.

Transferring personal information overseas

The IP Act also regulates the transfer of personal information to entities outside Australia. This is relevant if personal information is stored on computer networks and servers outside Australia (e.g. some cloud-based service providers are located overseas).

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 transfer is authorised or required by law, 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, or
- the department is satisfied that the information will be subject to privacy protections that are substantially similar to the IPPs and has taken reasonable steps to ensure that the information will not be treated in a way inconsistent with the IPPs.

Documents to which privacy principles do not apply

Documents to which to privacy principles do not apply include:

- 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 personal information—
 - arising out of or in connection with certain covert activity (e.g. operations under the *Police Powers and Responsibilities Act 2000* or the *Crime and Corruption Act 2001*, or warrants under the *Telecommunications (Interception and Access) Act 1979* (Cwlth))
 - relating to witness protection under an Act
 - relating to disciplinary actions or misconduct (e.g. under the *Police Service Administration Act 1990*, the *Crime and Corruption Act 2001*) or public interest disclosures under the *Public Interest Disclosure Act 2010*
 - subject to the Cabinet and Executive Council exemption in the *Right to Information Act 2009* (RTI Act)
 - arising out of a commission of inquiry.

About the department

The three main areas within the department are Child Safety, Youth Justice and Multicultural Affairs. 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*
- *Youth Justice Act 1992*
- *Young Offenders (interstate Transfer) Act 1987*
- *Multicultural Recognition Act 2016*

Child Safety

Child Safety works to strengthen and protect the wellbeing of Queensland children, young people and families so they can reach their full potential.

The department is the Queensland Government's lead agency for child safety and adoption services. We focus on safety, belonging and wellbeing and support the delivery of services to build families' capacity to care for and nurture their children.

Youth Justice

Youth Justice works to lead a focused, coordinated, whole-of-government approach to tackling youth offending, reducing reoffending and reducing the number of young people held on remand.

The [Youth Justice Action Plan](#) addresses the 4 pillars from the [Youth Justice Strategy](#), as well as other significant areas of work that will improve outcomes for young people and the community. Youth Justice is delivering a substantial reform package, with many new programs and services coming online to keep communities safe and reduce crime. [This guide](#) gives a clearer picture of the work Youth Justice is doing.

Multicultural Affairs

One of the purposes of the [Multicultural Recognition Act 2016](#) is to promote Queensland as a unified, harmonious and inclusive community by establishing the Multicultural Queensland Charter. 'Our story, our future' is the Queensland Government's [Multicultural Policy](#) (PDF, 2.8 MB).

The Multicultural Policy focuses Queensland Government commitment for people from culturally diverse backgrounds and for Queensland as a whole across three priorities:

1. achieving culturally responsive government
2. supporting inclusive, harmonious, and united communities
3. improving economic opportunities.

The *Multicultural Recognition Act 2016* requires all government agencies to report publicly on their actions in the plan and provide a summary of their progress every year. This allows the community to track how the government is achieving positive change and provides a picture of where we need to make changes to investment or services.

Collecting Personal Information

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 child protection litigation)
- **Youth justice services** (including offender management information)
- **Multicultural Affairs** (including when it hosts events, runs programs and initiatives, and establishes committees)
- **National Redress Scheme** (to acknowledge and support people who experienced sexual abuse in an institutional setting)
- **Corporate services** (including human resources, staff support, 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 **Appendix 1** of this guide.

What types of personal information does the department collect?

The department collects and manages a wide range of personal information 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 (e.g. tax file number, driver licence number)
- cultural background
- family and relationship details
- child protection history and allegations of harm
- medical/health/diagnostic information
- educational needs and service provision needs
- adoption information
- occupation and employment history
- details of office bearers in funded organisations
- youth offending and criminal history
- details about persons making complaints, subjects of complaints and witnesses

- recruitment information, such as applications, curriculum vitae, referee reports, interview notes and selection panel assessments
- information about staff relevant to human resource management functions (e.g. leave entitlements, bank account details, superannuation information, pay scale)
- footage captured by camera surveillance systems or electronic monitoring devices in departmental premises, such as at service centre counters.

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:
 - pages you accessed and documents downloaded
 - the page you visited prior to accessing our site
 - the IP 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.

Camera surveillance systems

The department uses camera surveillance systems in some locations, including at Child Safety Service Centres, Youth Justice Service Centres, Youth Detention Centres and office locations. Generally, this is done for safety and security reasons. There will be signs advising you if camera surveillance is in use.

In addition, body worn cameras are used by authorised staff in Youth Detention Centres. Body worn cameras record audio and video footage and are activated in accordance with the *Youth Justice Act 1992*. If safe, youth detention staff will warn people before they activate a body worn camera.

If you wish to obtain a copy of footage which may include your image, you should notify the Right to Information Team as soon as possible, as the footage is generally only retained for a short period (e.g. 30 days). After that time, the recording is written over and generally cannot be retrieved.

It is usually necessary to make a formal application under *Right to Information Act 2009* or the IP Act for access to camera surveillance footage.

The process for applying for information is discussed below.

Why does the department collect personal information?

The department collects personal information about clients and others, in order to perform its functions and undertake its regulatory, legislative and administrative activities.

The department also collects personal information about staff and job applicants to perform its human resources functions. In addition, it holds records and registers that may contain

personal information about consultants, contractors, financial management and policy consultations.

Collection notices

When collecting personal information from people, the department takes reasonable steps to explain to them why their information is being collected and whether the collection is required under a law, how their information will be used and whether it might be disclosed to anyone else. This information may be given in writing or verbally.

Use and disclosure of personal information

The department will only use and disclose personal information for the purpose for the purpose for which it was collected, unless one of the exceptions applies.

For example, the department may use or disclose personal information for a different purpose if:

- 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
- 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
- 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. giving information about a missing child to the police to help 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 taking a child interstate
- the person is *reasonably likely to have been aware* that it is the department's usual practice to disclose the information because they were told about it in a privacy notice
- the use or disclosure is for *research* in the public interest and certain requirements are met.

Access to your personal information

You can ask for your personal information using one of the department's administrative access schemes, or by making a formal application under the IP Act or RTI Act.

If you believe that the information recorded about you is inaccurate, incomplete, out of date or misleading, you can ask the department to amend it. You can make the request informally or under the IP Act. These processes are discussed below.

Personal information will not be disclosed to third parties, except as provided for by the IP Act and the RTI Act, or as required or authorised by other laws. When you ask for access to information, we will ask for evidence of your identity to ensure that your personal information is not disclosed inappropriately.

Administrative access

The department has administrative access schemes, which you may be able to use instead of making a formal application under the IP Act or RTI Act. Details about how to use those schemes are available at [the department's website](#).

However, sometimes administrative access will not be appropriate, for example, if information about someone else is recorded with your information. In such cases, a formal application under the RTI or IP Act will be required because the documents will need to be redacted to remove third party information.

Formal applications for access

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

If you want information which is not your personal information, or if you want information about someone else, you must apply under the RTI Act and an application fee applies. There may also be access charges. 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 enough information about 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). Alternatively, you can apply using the Queensland Government's [online application for access form](#).

Where documents contain your personal information, you must provide evidence of your identity, to ensure that your information is not disclosed to anyone else. Include certified copies of identification documents with your access application.

Amending your personal information

If you believe that the information the department holds about you is incorrect, misleading, incomplete or out of date, you may ask for it to be amended. Alternatively, you can apply for amendment under the IP Act, using the [Personal Information Amendment Application](#) form.

More information

More information about how to apply for access to or amendment of your personal information is available on the [department's website](#).

Alternatively, the department's Information Access and Amendment Unit can advise you about how to apply for access to your personal information (contact details on last page).

Privacy Breaches and Complaints

Despite our best efforts to protect your information, 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.¹

¹ The Information Privacy team only deals with information privacy breaches and complaints. If you want to make a complaint about a different type of privacy breach or about a human rights matter, you should contact the department's [Complaints Unit](#).

A person who believes that their personal information has not been handled in accordance with the IP Act may make a **privacy complaint**.

What does the department do if there is a privacy breach?

If the department becomes aware of a possible privacy breach, it immediately takes steps to:

- contain the breach
- 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.

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 contact the Information Privacy team (contact details below) to discuss your concerns, or you can make a privacy complaint.

Making a privacy complaint

Generally, we will only accept privacy complaints which are made within 12 months after you become aware of the matters you want to make a complaint about.

Information Privacy complaints must be made in writing using the [Privacy complaint form](#) and give particulars of the act or practice you are concerned about. 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 below. Click this link for more information about the department's [complaint process](#).

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 passed since you complained to the department: and
- you have not received a response, or you have received a response but consider it is not an adequate response.

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

Details about the Information Commissioner's privacy complaints process is available on [the Information Commissioner's website](#).

Complaints to the Queensland Civil and Administrative Tribunal

If you are not satisfied with the outcome of the OIC mediation process, you may ask the OIC to refer the matter to the Queensland Civil and Administrative Tribunal (QCAT) for decision.

QCAT has published information about its privacy jurisdiction at [Right to information and privacy jurisdictions of QCAT](#)

Contact details

Information Privacy

Telephone: (07) 3097 5609

Email: privacy@cyjma.qld.gov.au

Post: Right to Information, Information
Privacy and Redress
Department of Children, Youth Safety and Multicultural Affairs
Locked Bag 3405
Brisbane QLD 4001

Information access and amendment

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

Email: rti@cyjma.qld.gov.au

Post: Right to Information, Information Privacy and Redress
Department of Children, Youth Safety and Multicultural Affairs
Locked Bag 3405
Brisbane QLD 4001

Appendix 1

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.

Child Safety Services is dedicated to protecting children and young people who have been harmed, or are at risk of harm and do not have a parent or carer able and willing to protect them from harm. The department's role in protecting children and young people is to:

- investigate concerns that a child or young person has been harmed or is at risk of significant harm
- provide ongoing services to children and young people who are experiencing, or are at risk of experiencing significant harm.

The department 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.

Youth Justice

The goal of youth justice is to provide a fair and balanced response to young people in contact with the youth justice system. This response holds young people accountable for their actions, encourages their reintegration into the community and promotes community safety.

Youth justice works with communities, families and young people to reduce youth offending, re-offending and remand levels, and to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people. This includes empowering Aboriginal and Torres Strait Islander people to prevent and deal with crime in their communities, and to help design effective community-led initiatives and address youth justice issues.

Youth Justice has a significant program of reforms to achieve these goals, including by tackling the causes and consequences of youth crime.

National Redress scheme

Where it is named as the responsible institution or it holds information relevant to the request for information, the department receives requests for information from the Commonwealth.

The Commonwealth provides information to the department about people who have made an application to the National Redress scheme. The department collates information from its own records and prepares a response to the Commonwealth.

The department is also the central contact point for the Queensland Government, so it may also receive requests for information directed to other Queensland Government agencies. This occurs 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. In those situations, the department coordinates the responses from the other agency and provides them to the Commonwealth.

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

Multicultural Affairs

Multicultural Affairs seeks to strengthen relationships with diverse community, government and corporate stakeholders to build understanding of issues and opportunities, and help build inclusive and connected local communities. The Queensland Government has adopted the Multicultural Queensland Charter, which aims to promote Queensland as a unified harmonious and inclusive community, and the Queensland Government multicultural policy and action plan.

The Multicultural Queensland Advisory Council (the Council) advises the Minister for Multicultural Affairs on opportunities and barriers facing people from culturally and linguistically diverse backgrounds and how to promote the Multicultural Queensland Charter to support a unified, harmonious and inclusive community.

In addition, Multicultural Affairs runs a number of programs and initiatives, such as Multicultural Queensland Month and the Multicultural Queensland Awards. The Celebrating Multicultural Queensland program funds initiatives that celebrate and promote Queensland's multicultural identity, increase community awareness of benefits of multiculturalism, foster community cohesion, and support equal access to opportunities by people from diverse cultural backgrounds.

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.

In particular, corporate services supports departmental staff by:

- delivering learning and development opportunities

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- 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, and
- managing our facilities and delivering our capital projects.