

# Information Privacy Policy

Owner Governance, Performance and Risk  
Last Reviewed 30/11/2021

CHD/2018/4450  
Version 1.02

## 1. Purpose

The [Information Privacy Act 2009](#) (IP Act) protects personal information of individuals through the application of 11 Information Privacy Principles (IPPs)

The purpose of this policy is to enable the Department of Tourism, Innovation and Sport (DTIS) to comply with the IPPs when collecting, securing, using and disclosing personal information.

## 2. Policy

Personal information is defined in 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."*

DTIS is committed to ensuring all personal information is managed in accordance with the IP Act.

## 3. Principles

Personal information that is in the custody and management of DTIS (including customers and employees) will be responsibly and transparently collected, managed, used and disclosed in accordance the following principles:

- [collection of personal information \(IPPs 1 -3\)](#)
- [security of personal information \(IPP 4\)](#)
- [access and amendment of personal information \(IPPs 5-7\)](#)
- [use and disclosure of personal information \(IPPs 8-11\)](#)
- personal information will not be [transferred outside of Australia](#) unless authorised under Section 33 of the IP Act
- all reasonable steps will be taken to [bind contracted service providers](#) to the IPPs if they are dealing with personal information for DTIS as per Section 35 of the IP Act
- privacy breaches and complaints will be dealt with in a timely and responsive manner
- DTIS will comply with the conditions of any public interest approvals issued by the Information Commissioner under Section 157 of the IP Act.

## 4. Authority

The application of this policy enables the department to meet its obligations under the:

- [Information Privacy Act 2009](#)
- [Human Rights Act 2019](#)
- [Public Service Act 2008](#)
- [Public Sector Ethics Act 1994](#)
- [Code of Conduct for the Queensland Public Service.](#)

## 5. Human Rights consideration

Section 25 of the *Human Rights Act 2019* provides that a person has the right —

- a) *not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and*
- b) *not to have the person's reputation unlawfully attacked.*

The implementation of this policy supports the protection of privacy and personal information and reflects the requirements and obligations in the IP Act. The implementation of this policy is compatible with human rights.

This document was last reviewed in April 2021 to ensure actions and decisions under the policy are made in a manner compatible with human rights. Please note, when implementing this policy, DTIS officers must still consider if any human rights are relevant to and likely to be impacted by a particular decision, and whether any limitation of human rights are reasonable and justified.

## 6. Scope

This policy applies to all:

- permanent, temporary and casual employees (full-time and part-time)
- consultants/contractors performing work for the department
- school-based trainees, scholarship holders, cadet work-experience placements and other persons on placement, including volunteers.

### 6.1 Personal information

Personal information is defined by 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 the opinion*.

Essentially, any information that can be linked to an identifiable individual is personal information.

Personal information includes (but is not limited to):

- contact details (a person's name, address, phone number or email)
- financial details (e.g. a person's salary, bank account or credit card)
- education or qualification details (e.g. when a person finished school, the degree or certificate held by a person)
- health or biometric details (e.g. medical record, fingerprint, blood-type)
- religious or sexuality
- membership details
- a photograph or image of a person (e.g CCTV footage) and audio recordings
- details about a person's ownership of land or livestock
- allegations about a person (whether true or not)
- details about a person's licence, permit or authority.

Personal information **does not** include:

- information about a person whose identity is not known or who cannot be readily identified (deidentified information)
- information about a deceased person. Whilst private in nature, it is not considered personal information for the purpose of the IP Act
- information about a company (however, it does apply to personal information about an employee of that company)
- routine personal work information for **public sector employees**.

#### 6.1.1 Routine personal work information

Routine personal work information relates only to the work duties of a public-sector employee and is found in almost all documents held by agencies and Ministers.

Routine personal work information includes:

- a work email address or work phone number
- authorship of a work document, for example, where the person's name is listed as one of the authors of a report
- a professional opinion given wholly in a professional capacity
- a position classification
- a work responsibility.

## 7. Complaints

Individuals who are concerned that their privacy has not been dealt with in accordance with the IP Act can submit a complaint in writing to the department.

The [Information Privacy Complaints Management Procedure](#) outlines the process for the department to respond if a complaint is made.

The department will acknowledge all privacy complaints within three business days of receipt and will respond within 45 business days, as required under the IP Act.

## 7.1 Considerations

### 7.1.1 Information Privacy

Staff are required to ensure the handling of all personal information throughout a complaint management process is managed in accordance with the IP Act. Once it is determined that the complaint falls within the scope of the Complaints Management Policy, when collecting personal information (that is, the department is asking for personal information as part of investigating the complaint), a privacy notice must be provided to the complainant and other persons from whom personal information is being collected.

DTIS is committed to dealing with complaints in a confidential manner respectful to both the complainant and the respondent. A complainant's personal information, such as their identify, may need to be disclosed where it is necessary to:

- investigate the complaint
- refer the complaint to another agency (such as the Office of the Information Commissioner (OIC))
- give a respondent the opportunity to respond to allegations in a complaint.

For advice relating to information privacy, please contact [DTISPrivacy@dtis.qld.gov.au](mailto:DTISPrivacy@dtis.qld.gov.au).

### 7.1.2 Confidentiality

Persons involved in the complaints resolution process are to maintain confidentiality at all times subject to any legal authorisation or requirements for disclosure, and consistent with the principles of procedural fairness (natural justice).

### 7.1.3 Human Rights

When undertaking a complaint investigation process, the reviewing officer must consider if any human rights are relevant to and are likely to be impacted by a particular decision, and whether any limitation of human rights are reasonable and justified.

### 7.1.4 Reasonable assistance

Reasonable assistance should be provided to people who wish to make a complaint. Such assistance may include:

- providing an interpreter if a complainant has language difficulties or is hearing or vision impaired
- advising complainants where they can get further help and information
- the costs of arranging reasonable assistance will be borne by the business area to which the complaint relates.

### 7.1.5 Procedural fairness (natural justice)

The department manages complaints in accordance with the principles of procedural fairness (also referred to as natural justice, although this term is generally associated with courts of law). Procedural fairness provides that persons who may be adversely affected by an administrative decision must be provided:

- lack of bias: the decision-maker must act impartially in considering the matter
- fair hearing appropriate to the circumstances: meaning an opportunity to respond or to speak and that any submission is provided to, and genuinely considered by the decision-maker
- notice: any notice must identify the critical issues and contain sufficient information to enable meaningful participation in the decision-making process.

## 8. Related documents

- [Privacy and Visual Recording Devices and Systems Procedure](#)
- [Information Privacy Complaints Management Procedure](#)

## 9. Responsibilities

### Office of the Information Commissioner:

- help employees understand their privacy rights and responsibilities in Queensland
- mediate privacy complaints which individuals have not been able to resolve with the Queensland Government agency involved
- conduct reviews and audits of privacy compliance
- give compliance notices for serious, flagrant or recurring breaches of the privacy principles
- waive or modify an agency's privacy obligations for a particular purpose or project.

### Director-General:

- ensure the department has appropriate policies, guidelines and support tools that support the principles of the IP Act
- promptly forward all formal correspondence regarding privacy complaints from the OIC directly to Privacy Services and responding to that correspondence where necessary
- maintain accountability for the delivery of the information privacy function.

#### Deputy Director-General, Corporate Services:

- ensure oversight of the department's information privacy function, and that the department maintains:
  - compliance with the IP Act, this policy and other associated documents as listed in Section 4
  - clear management responsibilities and information privacy controls for activities which may have information privacy implications
- ensure that investigations of privacy complaints are facilitated
- ensure, where evidence of a systemic breach of the IP Act is identified, remedial action is implemented in their division.

#### Executive Directors (or equivalent) :

- allocate responsibility for assisting with privacy complaint issues, and deciding the methods appropriate to the sensitivity, complexity and importance of those issues. In complex cases, they may appoint a nominated officer who has not been involved in the originating cause of the inquiry/investigation to assist Privacy Services. The nominated officer should be of an equivalent or higher level than the officer(s) whose decisions or actions are in dispute (as applicable)
- ensure business areas provide relevant information to Privacy Services in response to privacy complaints and investigations.
- endorse the response to the privacy complainant on behalf of their business group/division
- ensure, where a one-off breach of the IP Act is identified, remedial action is implemented in their business group/division.

#### Privacy Services, Governance, Performance and Risk:

- develop and maintain an information privacy framework that supports the principles of the IP Act and other associated information privacy related documents
- provide advice and assistance to departmental staff in undertaking information privacy activities
- coordinate and provide advice to information privacy related communication and maintain updates relating to information privacy content on the department's intranet site
- coordinate information privacy complaint investigation and recommendations and facilitate department responses to external mediation and resolution of privacy complaints with the Office of the Information Commissioner and Queensland Civil and Administrative Tribunal.

#### All employees:

- undertake annual information privacy training
- ensure information privacy processes undertaken comply with this policy and associated information privacy documents, whole-of-government requirements and relevant policies
- ensure information privacy is managed in a transparent and accountable way and is able to withstand external scrutiny
- adequately document and file information privacy approvals and decisions
- immediately notifying Privacy Services if the OIC contacts them about a privacy complaint
- address any privacy complaint issue assigned to them, by the nominated deadline
- ensure Privacy Services is kept informed on progress in addressing the issue.

## 10. Definitions and glossary of terms

Term	Definition
Complainant	The person who makes a complaint.
Complaint	Expression of dissatisfaction, verbally or in writing, about the products, policies, services or actions of the department and or the associated conduct of officers or representatives of the department.
Customer complaint	A complaint about a product, service or action (or inaction) of the department, or its staff. Customer complaints include complaints about any of the following— <ul style="list-style-type: none"> <li>• a decision made, or a failure to make a decision, by an employee</li> <li>• an act, or failure to act, of the department</li> <li>• the formulation of a proposal or intention by the department</li> <li>• the making of a recommendation by the department</li> <li>• the customer service provided by an employee of the department</li> </ul>

Term	Definition
Delegate	The person authorised to perform a specific task or function on the Director-General or Minister's behalf. Delegations and authorisations are recorded in the department's delegation schedules.
Disclosure	For the purposes of the IP Act, an entity (the first entity) discloses personal information to another entity (the second entity) if: <ul style="list-style-type: none"> <li>the second entity does not know the personal information, and is not in a position to be able to find it out; and</li> <li>the first entity gives the second entity the personal information, or places it in a position to be able to find it out; and</li> <li>the first entity ceases to have control over the second entity in relation to who will know the personal information in the future.</li> </ul>
IPP	Means an information privacy principle stated in Schedule 3 of the IP Act. The IPPs regulate the collection, storage, handling, accessing, amendment, management, transfer, use and disclosure of personal information regardless of when it came into existence or when it was collected.
Natural justice (also referred to as Procedural Fairness)	The common law duty to accord a person procedural fairness when making a decision that affects their rights, interests or legitimate expectations. The duty to accord procedural fairness consists of three key rules: <ul style="list-style-type: none"> <li>the <b>fair hearing rule</b>, which requires a decision-maker to accord a person who may be adversely affected by a decision an opportunity to present his or her case</li> <li>the <b>rule against bias</b>, which requires a decision-maker not to have an interest in the matter to be decided and not to appear to bring a prejudiced mind to the matter</li> <li>the <b>no evidence rule</b>, which requires a decision to be based upon logically probative evidence.</li> </ul>
Personal Information	Defined in 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 the opinion'. Essentially, any information that can be linked to an identifiable individual is personal information.
Privacy Complaint	An expression of dissatisfaction concerning an act or practice by a relevant entity (the respondent department) in relation to the individual's personal information that is a breach of the relevant entity's obligation under the IP Act to comply with the privacy principles or an approval under section 157 of the IP Act.
Use	For the purpose of the IP Act, an entity uses personal information if it: <ul style="list-style-type: none"> <li>manipulates, searches or otherwise deals with the information, or</li> <li>takes the information into account in the making of a decision; or</li> <li>transfers the information from a part of the entity having particular functions to a part of the entity having different functions.</li> </ul> <p>use does not include the action of disclosing the personal information to another entity (refer <b>disclosure</b>).</p>

## References

- [Information Privacy Act 2009](#)
- [Public Records Act 2002](#)
- [Public Sector Ethics Act 1994](#)
- [Right to Information Act 2009](#)
- [Code of Conduct for the Queensland public service](#)

## 11. Review

This policy shall be reviewed within two years of the **Last Reviewed** date.

## 12. Approval

**John Lee**

A/Director-General

Department of Tourism, Innovation and Sport

Date: 10/06/2021

## 13. Keywords

CHD/2018/4450; privacy; information privacy; privacy policy; information privacy principles; IPP; personal information; privacy compliance