



Crime and Corruption Commission

QUEENSLAND

December 2016

Information Privacy Plan

Content

| | |
|--|----------|
| Introduction | 1 |
| What is personal information? | 1 |
| Exempt personal information | 1 |
| Privacy and law enforcement agencies | 3 |
| Types of personal information held by the CCC | 4 |
| 1. Employee Personnel Records | 4 |
| 2. Financial Management Records | 4 |
| 3. Information Management Systems Records | 4 |
| 4. Research Records | 4 |
| 5. Security Records | 4 |
| Access to personal information | 5 |
| Complaint and review process | 6 |
| Attachment – Information Privacy Principles | 7 |

© The State of Queensland (Crime and Corruption Commission) (CCC) 2016

You must keep intact the copyright notice and attribute the State of Queensland, Crime and Corruption Commission as the source of the publication.

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution (BY-NC) 4.0 Australia licence. To view this licence visit <http://creativecommons.org/licenses/by-nc/4.0/>.



Under this licence you are free, without having to seek permission from the CCC, to use this publication in accordance with the licence terms. For permissions beyond the scope of this licence contact: mailbox@ccc.qld.gov.au

Disclaimer of Liability

While every effort is made to ensure that accurate information is disseminated through this medium, the Crime and Corruption Commission makes no representation about the content and suitability of this information for any purpose. The information provided is only intended to increase awareness and provide general information on the topic. It does not constitute legal advice. The Crime and Corruption Commission does not accept responsibility for any actions undertaken based on the information contained herein.

Crime and Corruption Commission

GPO Box 3123, Brisbane QLD 4001

Level 2, North Tower Green Square

515 St Pauls Terrace

Fortitude Valley QLD 4006

Phone: 07 3360 6060

(toll-free outside Brisbane: 1800 061 611)

Fax: 07 3360 6333

Email: mailbox@ccc.qld.gov.au

Note: This publication is accessible through the CCC website <www.ccc.qld.gov.au>.

Introduction

The *Information Privacy Act 2009* (Qld) (**IP Act**) regulates how Queensland public sector agencies and statutory bodies, such as the Crime and Corruption Commission (**CCC**), manage personal information and provide access to and amendment of personal information.

Within the IP Act, the Information Privacy Principles (**IPPs**) dictate the way Queensland public sector agencies and statutory bodies collect, store, secure, access, amend, use and disclose personal information. The IPPs are prescribed in Schedule 3 of the IP Act and are set out in the Attachment to this Information Privacy Plan (**Plan**).

The Plan details the CCC approach to managing personal information in accordance with the IP Act, IPPs and CCC policies and procedures. The Plan is to be read in conjunction with the IP Act and *Information Privacy Regulation 2009* (Qld) (**IP Reg**).

What is personal information?

Personal information is defined in the IP Act as:¹

“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 is not limited to information that is sensitive or confidential, although the degree of sensitivity or confidentiality may influence the way in which the IPPs are applied in particular circumstances. Many of the IPPs require that reasonable actions be taken, having regard to the specific circumstances and the nature of the information. As such, procedures may vary with the relative sensitivity of the information.

Examples of personal information include an individual’s name and address, date of birth, contact details, and physical characteristics or attributes.

Personal information is collected and stored on a wide range of sources including paper, electronic databases, photographic and video image, audio recording, and digital formats.

Personal information, as defined in the IP Act, does not apply to information in generally available publications or sources. Generally available publications or sources include newspapers, magazines, journals, books, legislation and regulations etc.

Exempt personal information

In performing its crime and corruption functions and interacting with other government departments, agencies, and private sector bodies, the CCC collects, deals with and stores personal information that is exempt from the provisions of the IP Act. The IPPs do not apply to the following types of exempt personal information:²

1 IP Act, s 12.

2 IP Act, s 16 and Schedule 1.

Covert activity

Personal information about an individual arising out of, or in connection with, a controlled operation or controlled activity under the *Police Powers and Responsibilities Act 2000* (Qld) or the *Crime and Corruption Act 2001* (Qld); or arising out of, or in connection with, the covert undertaking of an operation, investigation or function of a law enforcement agency; or obtained under a warrant issued under the *Telecommunications (Interception and Access) Act 1979* (Cth).

Witness protection

Personal information about a witness who is included in a witness protection program under the *Witness Protection Act 2000* (Qld) or who is subject to other witness protection arrangements made under an Act.

Disciplinary actions and misconduct

Personal information about an individual arising out of a complaint under the *Police Service Administration Act 1990* (Qld), part 7; or a complaint, or an investigation of corruption, under the *Crime and Corruption Act 2001* (Qld).

Public Interest Disclosure

Personal information about an individual that is contained in a public interest disclosure under the *Public Interest Disclosure Act 2010* (Qld); or personal information that has been collected in an investigation arising out of a public interest disclosure under the *Public Interest Disclosure Act 2010* (Qld).

Cabinet and Executive Council

A document to the extent it contains personal information that is also the subject of the *Right to Information Act 2009* (Qld), schedule 3, section 1, 2 or 3.

Commissions of Inquiry

A document to the extent it contains personal information arising out of a commission of inquiry.

Generally available publications

A document that is a generally available publication.

Reference, study or exhibition

A document that is kept in a library, art gallery or museum for the purposes of reference, study or exhibition.

Public Records

A document that is a public record under the *Public Records Act 2002* (Qld) in the custody of the Queensland State Archives that is not in a restricted access period under that Act.

Postal material

A document that is a letter, or anything else, while it is being transmitted by post.

Privacy and law enforcement agencies

The definition of *law enforcement agency*³ is provided in the IP Act and includes the CCC. The IP Act contains a number of provisions dealing specifically with the law enforcement activities of law enforcement agencies. These provisions recognise that the CCC's use of personal information for investigation and enforcement purposes may not be compatible with the privacy principles in all circumstances. For example, it would defeat the purpose of covert surveillance if the CCC were to inform an individual that their personal information is being collected.⁴

Law enforcement activities are dealt with in three different ways in the IP Act:

- as part of the privacy principles – the CCC is bound by the principles but is able to rely on specific exemptions for law enforcement activities
- permitted non-compliance with some of the IPPs – the CCC can effectively disregard the specified privacy principles in relation to an enforcement action
- exemptions from the privacy principles for certain documents – the privacy principles do not apply to personal information in the stated documents.⁵

Section 29 of the IP Act allows the CCC to not comply with certain privacy principles in specific circumstances. Under section 29, the privacy principles to which the CCC does not have to comply are:

- IPP2: provide a collection notice
- IPP3: only collect relevant, complete and up to date personal information
- IPP9: only use relevant personal information
- IPP10: only use personal information for the purpose for which it was collected, unless an exemption applies
- IPP11: do not disclose personal information to anyone but the individual it is about, unless an exception applies.⁶

Before the CCC can rely on section 29 of the IP Act, the CCC must satisfy itself on reasonable grounds that non-compliance with one or more of the listed privacy principles is necessary in order to achieve or carry out the enforcement function in question. It is a decision that must be made every time the CCC has circumstances in which it considers necessary to not comply with the IPPs outlined in section 29 of the IP Act.⁷

However, the non-compliance exemption does not extend to the CCC's administrative functions, including corporate services, governance, finance and administration, and facilities management.

The CCC collects, manages and uses personal information in the performance of its statutory functions, obligations and responsibilities. The CCC may use or disclose personal information to other State and Federal Government agencies in accordance with the *Crime and Corruption Act 2001* (Qld) and the IP Act.⁸

Where the CCC collects information from State and local government departments and agencies, this information has been provided to the CCC for the purpose of performing its crime and corruption functions in relation to investigating criminal activity or corrupt conduct.

If an applicant is seeking to access information provided to the CCC by State and local government departments and agencies (the **originating agency**), the applicant should, in the first instance, apply to the originating agency to access information held by the originating agency.

3 IP Act, Schedule 5.

4 Privacy and law enforcement agencies, Guideline, Office of the Information Commissioner, updated 1 July 2014.

5 Ibid.

6 Ibid.

7 Ibid.

8 Ibid.

Types of personal information held by the CCC

The CCC holds personal information across a variety of classes of records. The records are kept in accordance with the CCC Retention and Disposal Schedule, which is approved by the Queensland State Archivist. Access, storage and security requirements vary depending on the nature, sensitivity and classification of the information contained in the records.

The types of personal information held by the CCC includes:

1. Employee Personnel Records

Employee personnel records consist of personnel, payroll, recruitment, performance, leave records, and other records. These records are managed to maintain employment history and payroll and administrative information relating to all permanent, temporary, contract and casual CCC staff members.

These records will contain personal identifiers of CCC staff.

2. Financial Management Records

Financial management records account for CCC income and expenditure. Information collected in the financial management records includes name, address and type of service for vendors and service providers. Sensitive information may include financial information including debts.

These records may contain personal information relating to creditors and debtors, including outsourced service providers, if they are identified personally.

3. Information Management Systems Records

The CCC's information management systems network routinely carries, enables the processing of, and stores, for varying periods, much of the core business and the supporting corporate service data of the CCC on behalf of its business areas.

It encompasses both internal electronic transactions and external transactions, including telephone, email, internet and intranet activity.

In addition to this material, there are some personal information records specifically tailored to the administration of information technology (IT) systems, namely IT system security identifiers and usage tracking records on staff users of the IT system.

Audit logs may contain personal identifiers.

4. Research Records

Personal information is collected by CCC staff who conduct interviews and surveys as part of the research projects undertaken by the CCC.

These records contain personal identifiers.

5. Security Records

The purpose of these records is to process, store and maintain information relating to the security practices of the CCC. Information is collected to enable security vetting for all employees, to conduct inter-agency probity assessments, for policy compliance, and to allow normal security processes to take place.

These records contain personal identifiers.

Access to personal information

Access to and amendment of personal information is dealt with in Chapter 3 of the IP Act.

Members of the community wishing to access CCC documents containing personal information should, in the first instance, make use of the administrative access schemes available outside of the formal access application prescribed in the IP Act and the *Right to Information Act 2009* (Qld) (**RTI Act**).

The CCC has a centralised unit for processing access applications under the IP Act and RTI Act. The Right to Information Unit has primary responsibility for determining Information Privacy and Right to Information applications. Applications for access to a document may be made to:

Right to Information Unit
Crime and Corruption Commission
GPO Box 3123
BRISBANE QLD 4001

Applications must be made using the approved form, which can be downloaded from the Queensland Government Right to Information and Information Privacy website.⁹

When preparing your application, you must provide sufficient information concerning the document necessary to identify and locate the document. Applications made under the RTI Act must be accompanied by the prescribed application fee.

Applications must include:

- The applicant's full name and address; and
- The applicant's current contact details e.g. home phone, mobile, email; and
- The applicant's date of birth and an original certified identification to be provided (photocopies will not be accepted); and
- Description of the document requested and possible location, and type of access required.

Where an application is made by an agent on behalf of an applicant, the agent must also provide evidence of their authority to act on behalf of the applicant and a copy of the agent's identification.

⁹ The approved form is accessible at <http://www.rti.qld.gov.au/>

Complaint and review process

With regard to the exemptions applied to law enforcement agencies under IPPs 2, 3, 9, 10 and 11, if you believe the CCC has not dealt with your personal information in accordance with the IPPs, you may make a complaint to the CCC.

A privacy complaint must be in writing; provide a contact address to which notices can be forwarded; and give particulars of the act or practice complained of.¹⁰

Enquiries concerning any privacy related matters should be directed to:

Right to Information Unit
Crime and Corruption Commission
GPO Box 3123
BRISBANE QLD 4001

The receipt of your complaint will be acknowledged within 10 business days and you will receive written advice of the outcome within 25 business days.

A privacy complaint may be made to the information commissioner where:

- A complaint has been made to the CCC; and
- At least 45 business days have elapsed since the complaint was made to the CCC; and
- The complainant has not received a response to the complaint or the complainant has received a response but considers the response not to be an adequate response.¹¹

¹⁰ IP Act, s 166.

¹¹ Ibid.

Attachment – Information Privacy Principles

Information Privacy Act 2009 – Schedule 3 - Information Privacy Principles¹²

IPP 1 – Collection of personal information (lawful and fair)

- (1) An agency must not collect personal information for inclusion in a document or generally available publication unless –
 - (a) the information is collected for a lawful purpose directly related to a function or activity of the agency; and
 - (b) the collection of the information is necessary to fulfil the purpose or is directly related to fulfilling the purpose.
- (2) An agency must not collect personal information in a way that is unfair or unlawful.

IPP 2 – Collection of personal information (requested from individual)

- (1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.
- (2) However, this section applies only if the agency asks the individual the subject of the personal information for either –
 - (a) the personal information; or
 - (b) information of a type that would include the personal information.
- (3) The agency must take all reasonable steps to ensure that the individual is generally aware of –
 - (a) the purpose of the collection; and
 - (b) if the collection of the personal information is authorised or required under a law –
 - (i) the fact that the collection of the information is authorised or required under a law; and
 - (ii) the law authorising or requiring the collection; and
 - (c) if it is the agency's usual practice to disclose personal information of the type collected to any entity (the **first entity**) – the identity of the first entity; and
 - (d) if the agency is aware that it is the usual practice of the first entity to pass on information of the type collected to another entity (the **second entity**) – the identity of the second entity.
- (4) The agency must take the reasonable steps required under subsection (3) –
 - (a) if practicable – before the personal information is collected; or
 - (b) otherwise – as soon as practicable after the personal information is collected.
- (5) However, the agency is not required to act under subsection (3) if –
 - (a) the personal information is collected in the context of the delivery of an emergency service; and
Example –
personal information collected during a triple 0 emergency call or during the giving of treatment or assistance to a person in need of an emergency service
 - (b) the agency reasonably believes there would be little practical benefit to the individual in complying with subsection (3) in the circumstances; and
 - (c) the individual would not reasonably expect to be made aware of the matters mentioned in subsection (3).

¹² IP Act, s 26

IPP 3 – Collection of personal information (relevance etc.)

- (1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.
- (2) However, this section applies to personal information only if the agency asks for the personal information from any person.
- (3) The agency must take all reasonable steps to ensure that –
 - (a) the personal information collected is –
 - (i) relevant to the purpose for which it is collected; and
 - (ii) complete and up to date; and
 - (b) the extent to which personal information is collected from the individual the subject of it, and the way personal information is collected, are not an unreasonable intrusion into the personal affairs of the individual.

IPP 4 – Storage and security of personal information

- (1) An agency having control of a document containing personal information must ensure that –
 - (a) the document is protected against –
 - (i) loss; and
 - (ii) unauthorised access, use, modification or disclosure; and
 - (iii) any other misuse; and
 - (b) if it is necessary for the document to be given to a person in connection with the provision of a service to the agency, the agency takes all reasonable steps to prevent unauthorised use or disclosure of the personal information by the person.
- (2) Protection under subsection (1) must include the security safeguards adequate to provide the level of protection that can reasonably be expected to be provided.

IPP 5 – Providing information about documents containing personal information

- (1) An agency having control of documents containing personal information must take all reasonable steps to ensure that a person can find out –
 - (a) whether the agency has control of any documents containing personal information; and
 - (b) the type of personal information contained in the documents; and
 - (c) the main purposes for which personal information included in the documents is used; and
 - (d) what an individual should do to obtain access to a document containing personal information about the individual.
- (2) An agency is not required to give a person information under subsection (1) if, under an access law, the agency is authorised or required to refuse to give that information to the person.

IPP 6 – Access to documents containing personal information

- (1) An agency having control of a document containing personal information must give an individual the subject of the personal information access to the document if the individual asks for access.
- (2) An agency is not required to give an individual access to a document under subsection (1) if –
 - (a) the agency is authorised or required under an access law to refuse to give the access to the individual; or
 - (b) the document is expressly excluded from the operation of an access law.

IPP 7 – Amendment of documents containing personal information

- (1) An agency having control of a document containing personal information must take all reasonable steps, including by the making of an appropriate amendment, to ensure the personal information –
 - (a) is accurate; and
 - (b) having regard to the purpose for which it was collected or is to be used and to any purpose directly related to fulfilling the purpose, is relevant, complete, up to date and not misleading.
- (2) Subsection (1) applies subject to any limitation in a law of the State providing for the amendment of personal information held by the agency.
- (3) Subsection (4) applies if –
 - (a) an agency considers it is not required to amend personal information included in a document under the agency’s control in a way asked for by the individual the subject of the personal information; and
 - (b) no decision or recommendation to the effect that the document should be amended wholly or partly in the way asked for has been made under a law mentioned in subsection (2).
- (4) The agency must, if the individual asks, take all reasonable steps to attach to the document any statement provided by the individual of the amendment asked for.

IPP 8 – Checking of accuracy etc. of personal information before use by agency

Before an agency uses personal information contained in a document under its control, the agency must take all reasonable steps to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, complete and up to date.

IPP 9 – Use of personal information only for relevant purpose

- (1) This section applies if an agency having control of a document containing personal information proposes to use the information for a particular purpose.
- (2) The agency must use only the parts of the personal information that are directly relevant to fulfilling the particular purpose.

IPP 10 – Limits on use of personal information

- (1) An agency having control of a document containing personal information that was obtained for a particular purpose must not use the information for another purpose unless –
 - (a) the individual the subject of the personal information has expressly or impliedly agreed to the use of the information for the other purpose; or
 - (b) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
 - (c) use of the information for the other purpose is authorised or required under a law; or
 - (d) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary for 1 or more of the following by or for a law enforcement agency –
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
 - (e) the other purpose is directly related to the purpose for which the information was obtained; or

Examples for paragraph (e) –

- 1 An agency collects personal information for staff administration purposes. A new system of staff administration is introduced into the agency, with much greater functionality. Under this paragraph, it would be appropriate to transfer the personal information into the new system.
 - 2 An agency uses personal information, obtained for the purposes of operating core services, for the purposes of planning and delivering improvements to the core services.
- (f) all of the following apply –
- (i) the use is necessary for research, or the compilation or analysis of statistics, in the public interest;
 - (ii) the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual the subject of the personal information;
 - (iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use.
- (2) If the agency uses the personal information under subsection (1)(d), the agency must include with the document a note of the use.

IPP 11 – Limits on disclosure

- (1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the **relevant entity**), other than the individual the subject of the personal information, unless –
- (a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or
 - (b) the individual has expressly or impliedly agreed to the disclosure; or
 - (c) the agency is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to life, health, safety or welfare of an individual, or to public health, safety or welfare; or
 - (d) the disclosure is authorised or required under a law; or
 - (e) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency –
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
 - (f) all of the following apply –
 - (i) the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;
 - (ii) the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;
 - (iii) it is not practicable to obtain the express or implied agreement of the individual before the disclosure;
 - (iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

- (2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.
- (3) If the agency discloses personal information under subsection (1), it must take all reasonable steps to ensure that the relevant entity will not use or disclose the information for a purpose other than the purpose for which the information was disclosed to the agency.
- (4) The agency may disclose the personal information under subsection (1) if the information may be used for a commercial purpose involving the relevant entity's marketing of anything to the individual only if, without limiting subsection (3), the agency is satisfied on reasonable grounds that –
 - (a) it is impracticable for the relevant entity to seek the consent of the individual before the personal information is used for the purposes of the marketing; and
 - (b) the relevant entity will not charge the individual for giving effect to a request from the individual to the entity that the individual not receive any marketing communications; and
 - (c) the individual has not made a request mentioned in paragraph (b); and
 - (d) in each marketing communication with the individual, the relevant entity will draw to the individual's attention, or prominently display a notice, that the individual may ask not to receive any further marketing communications; and
 - (e) each written marketing communication from the relevant entity to the individual, up to and including the communication that involves the use, will state the relevant entity's business address and telephone number and, if the communication with the individual is made by fax, or other electronic means, a number or address at which the relevant entity can be contacted electronically.



Crime and Corruption Commission
QUEENSLAND

Crime and Corruption Commission
GPO Box 3123, Brisbane QLD 4001

Level 2, North Tower Green Square
515 St Pauls Terrace
Fortitude Valley QLD 4006

Phone: 07 3360 6060
(toll-free outside Brisbane: 1800 061 611)

Fax: 07 3360 6333

Email: mailbox@ccc.qld.gov.au

www.ccc.qld.gov.au