

QUEENSLAND PRIVACY PRINCIPLES

Schedule 3, Information Privacy Act 2009

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QPP 1 - open and transparent management of personal information

- 1.1 The object of this QPP is to ensure that agencies manage personal information in an open and transparent way.

Compliance with the QPPs etc.

- 1.2 An agency must take reasonable steps to implement practices, procedures and systems relating to the agency's functions or activities that—
- (a) will ensure the agency complies with the QPPs and any QPP code that binds the agency; and
 - (b) will enable the agency to deal with inquiries and complaints from individuals about the agency's compliance with the QPPs or any QPP code that binds the agency.

QPP privacy policy

- 1.3 An agency must have a clearly expressed and up-to-date policy (the ***QPP privacy policy***) about the management of personal information by the agency.
- 1.4 Without limiting QPP 1.3, the QPP privacy policy of the agency must contain the following information—
- (a) the kinds of personal information that the agency collects and holds;
 - (b) how the agency collects and holds personal information;
 - (c) the purposes for which the agency collects, holds, uses and discloses personal information;
 - (d) how an individual may access personal information about the individual that is held by the agency and seek the correction of the information;
 - (e) how an individual may complain about a breach of the QPPs, or any QPP code that binds the agency, and how the agency will deal with the complaint;
 - (f) whether the agency is likely to disclose personal information to entities outside Australia;
 - (g) if the agency is likely to disclose personal information to entities outside of Australia—the countries in which the recipients are likely to be located if it is practicable to state those countries in the policy.

Availability of QPP privacy policy etc.

- 1.5 An agency must take reasonable steps to make its QPP privacy policy available—
- (a) free of charge; and
 - (b) in an appropriate form.

Example of how agency may make its QPP privacy policy available—
publication on the agency's website

- 1.6 If a person requests a copy of the QPP privacy policy of an agency in a particular form, the agency must take reasonable steps to give the person a copy in that form.

QPP 2—anonymity and pseudonymity

- 2.1 Individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with an agency in relation to a particular matter.
- 2.2 QPP 2.1 does not apply if, in relation to the matter—
 - (a) the agency is required or authorised under an Australian law, or a court or tribunal order, to deal with individuals who have identified themselves; or
 - (b) it is impracticable for the agency to deal with individuals who have not identified themselves or who have used a pseudonym.

QPP 3—collection of solicited personal information

Personal information other than sensitive information

- 3.1 An agency must not collect personal information, other than sensitive information, unless the information is reasonably necessary for, or directly related to, 1 or more of the agency's functions or activities.

Editor's note—

The equivalent APP includes a provision applying to certain private sector entities (see APP 3.2).

Sensitive information

- 3.3 An agency must not collect sensitive information about an individual unless—
 (a) the individual consents to the collection of the information and the information is reasonably necessary for, or directly related to, 1 or more of the agency's functions or activities; or

Editor's note—

The equivalent APP includes a provision applying to certain private sector entities (see APP 3.3(a)(ii)).

(b) QPP 3.4 applies in relation to the information.

- 3.4 This QPP applies in relation to sensitive information about an individual if—
 (a) the collection of the information is required or authorised under an Australian law or a court or tribunal order; or
 (b) a permitted general situation exists in relation to the collection of the information by the agency; or

Note—

Permitted general situations are stated in schedule 4, part 1.

(c) the agency is a health agency and a permitted health situation exists in relation to the collection of the information by the agency; or

Note—

Permitted health situations are stated in schedule 4, part 2.

(d) the agency is a law enforcement agency and the agency reasonably believes that the collection of the information is reasonably necessary for, or directly related to, 1 or more of the agency's functions or activities.

Editor's note—

The equivalent APP includes a provision applying to—

(a) the Commonwealth Immigration Department (see APP 3.4(d)(i)); and

(b) non-profit organisations (see APP 3.4(e)).

Means of collection

- 3.5 An agency must collect personal information only by lawful and fair means.
- 3.6 An agency must collect personal information about an individual only from the individual unless—
 (a) either—
 (i) the individual consents to the collection of the information from someone other than the individual; or

- (ii) the agency is required or authorised under an Australian law, or a court or tribunal order, to collect the information from someone other than the individual; or
- (b) it is unreasonable or impracticable to do so.

Solicited personal information

3.7 This QPP applies to the collection of personal information that is solicited by an agency.

Definition – Sensitive Information

sensitive information, for an individual, means the following—

- (a) information or an opinion, that is also personal information, about the individual's—
 - (i) racial or ethnic origin; or
 - (ii) political opinions; or
 - (iii) membership of a political association; or
 - (iv) religious beliefs or affiliations; or
 - (v) philosophical beliefs; or
 - (vi) membership of a professional or trade association; or
 - (vii) membership of a trade union; or
 - (viii) sexual orientation or practices; or
 - (ix) criminal record;
- (b) health information about the individual;
- (c) genetic information about the individual that is not otherwise health information;
- (d) biometric information that is to be used for the purpose of automated biometric verification or biometric identification; or
- (e) biometric templates.

Schedule 4 Permitted general situations schedule 5

Part 1 Permitted general situations

1 Collection, use or disclosure

A permitted general situation exists in relation to the collection, use or disclosure by an agency of personal information about an individual if—

- (a) both of the following apply—
 - (i) it is unreasonable or impracticable to obtain the individual's consent to the collection, use or disclosure;
 - (ii) the agency reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of an individual or to public health or safety; or
- (b) both of the following apply—
 - (i) the agency has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the agency's functions or activities has been, is being or may be engaged in;

- (ii)the agency reasonably believes that the collection, use or disclosure is necessary in order for the agency to take appropriate action in relation to the matter; or
- (c)both of the following apply—
 - (i)the agency reasonably believes that the collection, use or disclosure is reasonably necessary to assist an entity to locate a person who has been reported as missing;
 - (ii)the collection, use or disclosure complies with a guideline in effect under chapter 3, part 2; or
- (d)the collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim; or
- (e)the collection, use or disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.

QPP 4—dealing with unsolicited personal information

- 4.1 If—
- (a) an agency receives personal information; and
 - (b) the agency did not solicit the information;
- the agency must, within a reasonable period after receiving the information, decide whether or not the agency could have collected the information under QPP 3 if the agency had solicited the information.
- 4.2 The agency may use or disclose the personal information for the purposes of making the decision under QPP 4.1.
- 4.3 If—
- (a) the agency decides the agency could not have collected the personal information; and
 - (b) the information is not contained in a public record;
- the agency must, as soon as practicable but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.
- 4.4 If QPP 4.3 does not apply in relation to the personal information, QPPs 5 to 13 apply in relation to the information as if the agency had collected the information under QPP 3.

QPP 5—notification of the collection of personal information

- 5.1 At or before the time or, if that is not practicable, as soon as practicable after, an agency collects personal information about an individual, the agency must take steps, if any, that are reasonable in the circumstances to—
- (a) notify the individual of the matters mentioned in QPP 5.2 that are reasonable in the circumstances; or
 - (b) otherwise ensure that the individual is aware of those matters.
- 5.2 The matters for QPP 5.1 are the following—
- (a) the identity and contact details of the agency;
 - (b) if—
 - (i) the agency collects the personal information from someone other than the individual; or
 - (ii) the individual may not be aware that the agency has collected the personal information;
 the fact that the agency collects, or has collected, the information and the circumstances of that collection;
 - (c) if the collection of the personal information is required or authorised under an Australian law, or a court or tribunal order—the fact that the collection is required or authorised, including the name of the Australian law, or details for the court or tribunal order, that requires or authorises the collection;
 - (d) the purposes for which the agency collects the personal information;
 - (e) the main consequences, if any, for the individual if all or some of the personal information is not collected by the agency;
 - (f) any other agency or entity, or the kinds of any other agencies or entities, to which the agency usually discloses personal information of the kind collected by the agency;
 - (g) that the QPP privacy policy of the agency contains information about how the individual may access the personal information about the individual that is held by the agency and seek the correction of the information;
 - (h) that the QPP privacy policy of the agency contains information about how the individual may complain about a breach of the QPPs, or any QPP code that binds the agency, and how the agency will deal with the complaint;
 - (i) whether the agency is likely to disclose the personal information to entities outside of Australia;
 - (j) if the agency is likely to disclose the personal information to entities outside of Australia—the countries in which the recipients are likely to be located if it is practicable to state those countries in the notification or to otherwise make the individual aware of them.

QPP 6—use or disclosure of personal information

- 6.1 If an agency holds personal information about an individual that was collected for a particular purpose (the **primary purpose**), the agency must not use or disclose the information for another purpose (the **secondary purpose**) unless—
- (a) the individual has consented to the use or disclosure of the information; or
 - (b) QPP 6.2 applies in relation to the use or disclosure of the information.

- 6.2 This QPP applies in relation to the use or disclosure of personal information about an individual if—
- (a) the individual would reasonably expect the agency to use or disclose the information for the secondary purpose and the secondary purpose is—
 - (i) if the information is sensitive information—directly related to the primary purpose; or
 - (ii) if the information is not sensitive information—related to the primary purpose; or
 - (b) the use or disclosure of the information is required or authorised under an Australian law or a court or tribunal order; or
 - (c) a permitted general situation exists in relation to the use or disclosure of the information by the agency; or

Note—

Permitted general situations are stated in schedule 4, part 1.

- (d) the agency is a health agency and a permitted health situation exists in relation to the use or disclosure of the information by the agency; or

Note—

Permitted health situations are stated in schedule 4, part 2.

- (e) the agency reasonably believes the use or disclosure of the information is reasonably necessary for one or more enforcement-related activities conducted by a law enforcement agency; or

- (f) all of the following apply—

- (i) ASIO has asked the agency to disclose the personal information;
- (ii) an officer or employee of ASIO authorised in writing by the director-general of ASIO for this paragraph has certified in writing that the personal information is required in connection with the performance by ASIO of its functions;
- (iii) the disclosure is made to an officer or employee of ASIO authorised in writing by the director-general of ASIO to receive the personal information; or

Editor's note—

QPP 6.2(f) applies in relation to Queensland agencies and does not correspond to an APP.

- (g) all of the following apply—

- (i) the use or disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;
- (ii) the use or disclosure does not involve the publication of all or any of the personal information in a form that identifies any individual;
- (iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use or disclosure;

(iv) if the personal information is disclosed to another entity—the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

Editor's notes—

- 1 QPP 6.2(g) applies in relation to Queensland agencies and does not correspond to an APP.
- 2 The *Privacy Act 1988* (Cwlth), schedule 1 includes a privacy principle about the disclosure of personal information that is biometric information or biometric templates to an enforcement body in certain circumstances (see APP 6.3). There is no equivalent QPP for APP 6.3.

6.4 If—

- (a) the agency is a health agency; and
 - (b) schedule 4, part 2, section 3 applied in relation to the collection of the personal information by the agency;
- the agency must take reasonable steps to ensure the information is de-identified before the agency discloses it under QPP 6.1 or QPP 6.2.

Written note of use or disclosure

6.5 If an agency uses or discloses personal information in accordance with QPP 6.2(e), the agency must make a written note of the use or disclosure.

Editor's note—

The equivalent APP includes a provision applying to certain private sector entities (see APP 6.6 and APP 6.7).

Sch 4, Part 1

Permitted general situations

1 Collection, use or disclosure

A permitted general situation exists in relation to the collection, use or disclosure by an agency of personal information about an individual if—

- (a) both of the following apply—
 - (i) it is unreasonable or impracticable to obtain the individual's consent to the collection, use or disclosure;
 - (ii) the agency reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of an individual or to public health or safety; or
- (b) both of the following apply—
 - (i) the agency has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the agency's functions or activities has been, is being or may be engaged in;
 - (ii) the agency reasonably believes that the collection, use or disclosure is necessary in order for the agency to take appropriate action in relation to the matter; or
- (c) both of the following apply—
 - (i) the agency reasonably believes that the collection, use or disclosure is reasonably necessary to assist an entity to locate a person who has been reported as missing;
 - (ii) the collection, use or disclosure complies with a guideline in effect under chapter 3, part 2; or

(d)the collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim; or

(e)the collection, use or disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.

QPP 10—quality of personal information

- 10.1 An agency must take reasonable steps to ensure the personal information the agency collects is accurate, up to date and complete.
- 10.2 An agency must take reasonable steps to ensure the personal information the agency uses or discloses is, having regard to the purpose of the use or disclosure, accurate, up to date, complete and relevant.

QPP 11—security of personal information

- 11.1 If an agency holds personal information, the agency must take reasonable steps to protect the information—
- (a) from misuse, interference or loss; and
 - (b) from unauthorised access, modification or disclosure.
- 11.2 If—
- (a) an agency holds personal information about an individual; and
 - (b) the agency no longer needs the information for a purpose for which the information may be used or disclosed by the agency under the QPPs; and
 - (c) the information is not contained in a public record; and
 - (d) the agency is not required under an Australian law, or a court or tribunal order, to retain the information;
- the agency must take reasonable steps to destroy the information or to ensure the information is de-identified.

QPP 12—access to personal information

Access

12.1 If an agency holds personal information about an individual, the agency must, on request by the individual, give the individual access to the information.

Exception to access

12.2 If the agency is required or authorised to refuse to give the individual access to the personal information under—

(a) the Right to Information Act; or

(b) another law in force in Queensland that provides for access by people to documents;

then, despite QPP 12.1, the agency is not required to give access to the extent the agency is required or authorised to refuse to give access.

Editor's notes—

- 1 The equivalent APP includes a provision applying to certain private sector entities (see APP 12.3).
- 2 The *Privacy Act 1988* (Cwlth), schedule 1 includes privacy principles about the procedures for requesting access to personal information, including requirements for dealing with requests for access, other means of access, access charges and refusals to give access (see APPs 12.4 to 12.10).
There are no equivalent QPPs for APPs 12.3 to 12.10.

QPP 13—correction of personal information

Correction

13.1 If—

- (a) an agency holds personal information about an individual; and
- (b) either—
 - (i) the agency is satisfied that, having regard to a purpose for which the information is held, the information is inaccurate, out of date, incomplete, irrelevant or misleading; or
 - (ii) the individual requests the agency to correct the information;

the agency must take reasonable steps to correct the information to ensure that, having regard to the purpose for which it is held, the information is accurate, up to date, complete, relevant and not misleading.

Editor's note—

The *Privacy Act 1988* (Cwlth), schedule 1 includes privacy principles about requirements to notify other APP entities of corrections to personal information, and refusals to correct personal information (see APPs 13.2 and 13.3).

There are no equivalent QPPs for APPs 13.2 and 13.3.

Request to associate a statement

13.4 If—

- (a) the agency refuses to correct the personal information as requested by the individual; and
- (b) the individual requests the agency to associate with the information a statement that the information is inaccurate, out of date, incomplete, irrelevant or misleading;

the agency must take reasonable steps to associate the statement in a way that will make the statement apparent to users of the information.

Editor's note—

The *Privacy Act 1988* (Cwlth), schedule 1 includes a privacy principle about dealing with requests to correct personal information (see APP 13.5).

There is no equivalent QPP for APP 13.5.

- 13.6 An agency need not comply with QPP 13.1 in relation to a request made to the agency to correct personal information if the agency is required or authorised to refuse to correct or amend the information under the Right to Information Act or another Act regulating the amendment of personal information.

Editor's note—

QPP 13.6 applies in relation to Queensland agencies and does not correspond to an APP.