



Queensland
Government

Queensland Health

Privacy Plans - Health Portfolio Statutory Authorities

March 2003

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1. Introduction

This document contains the privacy plans of the following statutory authorities funded through Queensland Health:

- Health Rights Advisory Council;
- Radiation Advisory Council;
- Professional Conduct Review Panels; and the
- Mental Health Review Tribunal

These are the second plans produced by these authorities as required by Queensland Government Information Standard 42A – Information Privacy for the Queensland Department of Health (IS42A).

The statutory authorities whose privacy plans appear in this document come under the umbrella of the Department of Health for the purpose of the Government's privacy regime. As the Director-General of the Department I must formally approve the privacy plans of these authorities but it needs to be acknowledged that each authority is statutorily independent of the Department in its operation and that my approval of the privacy plans should not be construed as compromising this independence in any way. Each authority has been responsible for the preparation of its own privacy plan. It should also be noted that the head of each authority is the responsible officer for complaint resolution but may delegate day to day handling of complaints to an appropriately qualified officer.

(Dr) Robert Stable
Director-General

March 2003

2. Scope

This document contains the privacy plans of health portfolio statutory authorities. A separate privacy plan applies to the Department of Health (Corporate Office, Statewide Services and Health Service Districts) and all District Health Councils.

3. Background

On 10 September 2001 the Queensland Government approved IS42A. IS42A applies a set of rules based on the National Privacy Principles (NPPs) contained in the Privacy Act 1988 (Clth)¹. Although the NPPs in IS42A are based on the NPPs contained in the Commonwealth Privacy Act it should be noted that neither the Queensland Department of Health, or health portfolio statutory authorities, are bound by this Act.

For the purpose of identifying information to be managed in accordance with the requirements of IS42A “personal information” is defined 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”.

It should be noted that a limited range of personal information is exempt from IS42A, namely:

- Covert activity
- Witness protection
- Disciplinary action and misconduct
- Whistleblowers
- Cabinet and Executive Council documents
- Commissions of Inquiry

The issue of exemptions is addressed in section 1.2 of IS42A.

4. Privacy Plans

The privacy plans of the statutory authorities covered by this document are set out in Appendices 1-4. The plans were prepared by the authorities as standalone documents and, consequently, there is a degree of repetition of some information. This approach enables the authorities to publish their own plans separately from this document.

¹ <http://www.privacy.gov.au/act/index.html>

APPENDIX 1

Mental Health Review Tribunal

Introduction

This privacy plan applies to the Mental Health Review Tribunal, established under Chapter 12 of the *Mental Health Act 2000*.

Background

An Information Privacy Scheme has been developed by the Queensland Government for the public sector to protect the privacy of personal information held by Queensland Government departments and agencies.

Privacy standard IS42A, based on the National Privacy Principles under the *Privacy Act 1988* (Cth), was issued by the Department of Innovation, and Information Economy, Sport and Recreation Queensland on 18 September 2001. IS42A applies only to Queensland Health and associated statutory authorities. Information Standard 42 applies to all other departments and agencies.

The standard requires that personal information be managed in accordance with a set of Privacy Principles. Personal Information is defined in IS42A as being:

“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”.

IS42A also clearly defined “health information” as follows:

- (a) information or an opinion about:
 - (i) the health or disability (at any time) of an individual; or
 - (ii) an individual’s expressed wishes about the future provision of health services to him or her; or
 - (iii) a health service provided, or to be provided, to an individual; that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances.

Some types of personal information are exempt from IS42A, including:

- covert activity
- witness protection
- disciplinary action and misconduct
- whistleblowers
- cabinet and executive council documents
- commissions of inquiry

Mental Health Review Tribunal

The Mental Health Review Tribunal commenced operation on 28 February 2002 under the *Mental Health Act 2000*.

The Tribunal is an independent statutory body established under Chapter 12, Part 1 of the *Mental Health Act 2000*. The Tribunal consists of the President and part time Tribunal members, including lawyers, psychiatrists and persons with other relevant qualifications and/or experience. The Act also provides for an Executive Officer and other staff necessary for the Tribunal to carry out its functions.

The *Mental Health Act 2000* provides for the involuntary assessment and treatment of persons with mental illnesses, while at the same time safeguarding their rights. The purpose of the Tribunal is principally to review involuntary detention and/or treatment of persons with mental illnesses, along with certain other functions.

As the Tribunal has only been in operation for a relatively short period of time some policies, guidelines and protocols necessary to the Tribunal's operation are still being developed. An example is the completion of an information retention and disposal policy in conjunction with the State Archivist, which is currently under review.

The Mental Health Tribunal Review Tribunal, in accordance with the decision of State Cabinet in September 2001, must comply with the National Privacy Principles set out in Information Standard No.42A.

Privacy Plan Requirements

The Mental Health Review Tribunal is required under section 3.1 of Information Standard 42A to:

- Develop a privacy plan to give effect to the NPPs
- Publish the privacy plan on their website (where a website has been developed)
- Implement the privacy plan according to a schedule developed in the privacy plan
- Review and update the privacy plan annually

Further the Mental Health Review Tribunal must ensure that the privacy plan includes:

- The implementation schedule for giving effect to the NPPs
- The legislation administered by the Tribunal and the legislative requirements, if any, related to personal information that will supersede the NPPs
- The contact details for the Tribunal's privacy officer
- The nature of the records of personal information kept by or on behalf of the Tribunal
- The purpose for which each type of record is kept
- The classes or types of individuals about whom records are kept
- The period for which each type of record is kept
- The persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have access
- The steps that should be taken by persons wishing to obtain access to that information.

The Mental Health Review Tribunal's privacy plan is intended to satisfy NPP 5.1 requiring the policies relating to the management of personal information by the Tribunal to be set out in a document and available to any person who requests it.

Implementation

Implementation Schedule

The Mental Health Review Tribunal is committed to ensuring the implementation of the National Privacy Principles and Information Standard No.42A by 8 September 2003.

Implementation Process

The Tribunal's implementation of Information Standard No.42A will be a multi-step process. The following activities will be undertaken to implement and support the implementation of the National Privacy Principles:

- Education of Tribunal staff and members on IS42A
- Review of operation procedures and policies to ensure compliance with the Privacy Principles
- Ensure that policies being developed or under review reflect IS42A
- Development of process for handling complaints regarding privacy rights
- Make available on website and in hard copy the Tribunal's Privacy Plan and overview of consumer's privacy rights
- Development of literature/brochures on privacy rights for clients/patients

Legislative Requirements

Information Standard 42A is an administratively based privacy scheme. It should be noted that where a matter is covered by IS42A and is also dealt with in specific legislation, the specific legislative provisions will apply rather than the relevant NPP.

Legislation administered by the Mental Health Review Tribunal

The Mental Health Review Tribunal and the Tribunal's jurisdiction are established in Chapter 12, Part 1 of the *Mental Health Act 2000*.

Legislative requirement that supersede the NPPs

The Mental Health Review Tribunal is subject to and responsible for administering legislative provisions of the *Mental Health Act 2000* dealing with privacy issues and the collection, use and disclosure of personal information.

The relevant provisions are listed in Schedule 1 according to the relevant NPP.

Other Legislation dealing with Privacy Issues

There are many legislative provisions to which the Tribunal has regard in the collection, use and disclosure of personal information. This legislation is referred to less frequently than the previously discussed legislation and is briefly listed in Schedule 2.

Policies on the Management of Personal Information

Queensland Government Policies

While IS42A is the prominent government policy in respect of the management of personal information, several other government standards and Mental Health Review Tribunal policies operate in conjunction with IS42A to protect the privacy of individual's personal information

The Tribunal's management of personal information is subject to information standards issued by the Department of Innovation and Information Economy, Sport and Recreation. These standards are binding on the Tribunal and are set out in Schedule 3 according to the relevant NPP.

Mental Health Review Tribunal Policies

The Mental Health Review Tribunal has developed a number of operational policies and procedures relating to the management of personal information held by the Tribunal.

Prior to the commencement of the National Privacy Principles those procedures will be reviewed. The Tribunal will be covered by the Queensland Health Guidelines for IS42A currently being drafted, and will be utilised by the Mental Health Review Tribunal in implementing the information standard.

The Tribunal policies are included in Schedule 3 according to the relevant NPP.

Personal Information

The Mental Health Review Tribunal's privacy plan must address the following matters:

- The nature of the records of personal information kept by or on behalf of the Tribunal
- The purpose for which each type of record is kept
- The classes or types of individuals about whom records are kept
- The period for which each type of record is kept
- The persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have access

The personal information held by the Mental Health Review Tribunal relates predominantly to patients/clients of the Tribunal. However, the Tribunal also holds collects, stores and uses personal information pertaining to staff, including Tribunal members, suppliers and other business partners.

The Personal Information collected, stored and used by the Mental Health Review Tribunal is detailed in Schedule 4.

Access to Personal Information

Freedom of Information Act 1992

The right of access to personal information held by the Mental Health Review Tribunal is by way of the provisions of the Freedom of Information Act 1992. Any person wishing to make an application to access personal information under the Freedom of Information Act 1992 should contact the Legal Officer at the Tribunal Office on (07) 3235 9060 who will be able to provide information as to the procedure to be followed in making an application.

The FOI Act came into operation in relation to State Government agencies, including Queensland Health, on 19 November 1992. The FOI Act confers three important rights:

- every person has a general right to seek access to all the documents held by government agencies, subject to specific exemptions necessary to protect the workings of government, and business and personal affairs
- if information, which relates to the personal affairs of an individual, contains errors or inaccuracies, that person has the right to seek the amendment of that information
- government agencies are required to publish information about their structure and functions, and every person has a right to inspect those publications.

Lodging Freedom of Information Applications

Persons wishing to make an FOI application should make the application to the delegated decision-maker.

Applications for access to documents of the Mental Health Review Tribunal must satisfy the following requirements:

- the application must be in writing
- the application must contain sufficient information concerning the documents as is reasonably necessary to enable the documents to be identified
- the application should specify an address to which a decision in relation to the application may be sent to the applicant.

Applications for amendment of documents of the Mental Health Review Tribunal which relate to the applicant's personal affairs (or the personal affairs of a deceased person to whom the applicant is next of kin) must satisfy the following requirements:

- the application must be in writing and addressed to Tribunal FOI Officer
- the application must specify an address to which a decision in relation to the application may be sent to the applicant;
- the application must provide information to support the applicant's belief that the information contained in the documents of the Mental Health Review Tribunal is *inaccurate, incomplete, out-of-date or misleading*;
- the application must specify the amendments that the applicant wishes to be made.

Fees and Charges Applying to FOI Applications

Applications for access to documents concerning the applicant's personal affairs, or for amendment of documents, are free of charge - no application fee or other charges are payable.

Under the FOI Act, "personal affairs" does not cover every piece of information about an individual or their "affairs". It covers only information about those affairs that are "personal", that is, information about the private aspects of a person's life, not about things done in a job or a business, or a position held or as part of a public activity. So information about a person at work or about their business will not usually concern their personal affairs.

The external review body (the Information Commissioner) has given some examples of information which is regarded as relating to an individual's personal affairs. These include documents in relation to:

- information of a medical or psychiatric nature about the person; the person's health or ill-health;
- the person's relationships and emotional ties with other individuals; and
- the person's domestic responsibilities or financial obligations.

Applications for access to documents that do not concern the applicant's personal affairs attract a mandatory \$32.50 application fee. A non-personal application will not be processed until the application fee has been received.

Non-personal applications also attract the following access charges:

- (a) \$5 per 15 minutes or part of 15 minutes, for time spent in:
- searching for or retrieving documents;
 - making, or doing things related to making, a decision on an application for access; and
 - making an officer available to supervise inspection of documents;

if the total amount of time spent by an officer or officers of the agency performing these tasks is more than 2 hours. (The FOI Act provides a mechanism under which an access applicant must be notified of the preliminary assessment of these charges, and given an opportunity to seek a reduction of the charges on the grounds that they have been wrongly assessed, or seek a waiver of the charges on grounds of financial hardship).

- (b) 20 cents per page for providing black and white photocopies in A4 size
- (c) an amount that is not more than the actual cost incurred by the agency in giving access, where access is provided in a form other than by inspection or by providing an A4 size black and white photocopy (eg. copies of X-rays, photographs, audio tapes).

NOTE: FOI fees and charges are not subject to the Goods and Services Tax (GST).

Decisions on the applicability and amount of fees and charges are subject to the rights of internal and external review (see below).

Internal Review

Both the applicant and any third parties formally consulted about the release of documents to the applicant have 28 days to lodge an application for internal review if they are dissatisfied with the decision.

Written applications for internal review should be directed to the FOI Officer. There is no charge for internal review applications.

The Internal Review Officer must process the application and notify the applicant of the decision within 14 days.

External Review

If the applicant or a third party is dissatisfied with the internal review decision, they may apply to the Information Commissioner for external review. The application must be in writing and directed to:

The Information Commissioner
Floor 25,
288 Edward Street
BRISBANE QLD 4000
Telephone: (07) 3005 7100
Facsimile: (07) 3005 7099

OR GPO Box 3314
BRISBANE QLD 4001

An applicant seeking external review must apply within 60 days of receipt of the internal review decision. A third party who was consulted or was entitled to be consulted, and objects to a decision to disclose documents, must apply for external review within 28 days of receipt of the internal review decision.

Complaints about Breaches of Privacy

Where a person is of the view that their personal information held by the Mental Health Review Tribunal has not been dealt with in accordance with a National Privacy Principles or Information Standard 42A they may make a request for internal review.

A request must be made in writing and must be made within six months from the date when the breach was suspected to have occurred. Requests should be forwarded to:

The Legal Officer
Mental Health Review Tribunal
PO Box 818
Albert Street BC
Brisbane QLD 4002

Requests for review will be acknowledged by the Tribunal, in writing, within 14 days from the date on which the application is received. Applications will be processed within 60 days from the date upon which the application was received and applicants will be advised in writing of the decision.

If the applicant does not agree with the decision they may request an internal review. The President of the Tribunal will arrange for an internal review to be carried out by an officer who has not previously been involved in the matter. This will be done within 45 days. The President will then provide a response in writing to the applicant.

Schedule 1

Legislative requirements that supersede the NPPs

Specific provisions of the *Mental Health Act 2000* administered by the Mental Health Review Tribunal provide for the use and disclosure of personal information. These provisions are briefly discussed below in accordance with the relevant privacy principle.

Collection (NPPs 1 & 10)

The *Mental Health Act 2000* provides for the collection of various documents by the Tribunal, including:

- Applications for review (sections 187, 194, 200, 210)
- Treatment applications (sections 229, 230)
- Application for a notification order (section 221)
- Applications to move out of Queensland (section 171)
- Details of arrangements regarding an application to move out of Queensland (section 173)
- Appeal against the decision of an administrator to exclude a visitor (section 375)
- Notice of forensic order made by the Mental Health Court (section 291)
- Notice of discontinuation of proceedings (section 216)
- Written report of examination ordered by the Tribunal under section 457
- Treatment Plans (section 124)

Anonymity (NPP 8)

The Tribunal administers one provision under the *Mental Health Act 2000* that expressly addresses the issue of anonymity of an individual.

- Information that identifies or is likely to lead to the identification of a young person who has been a party to a proceeding in the Tribunal is prohibited. (section 526)

Use and Disclosure (NPP 2)

- The principle duty of confidentiality for the Mental Health Review Tribunal is Section 528 of the *Mental Health Act 2000*. Section 528 requires that information must not be disclosed, or access to a document given, to anyone else except:
 - where it is necessary in order to perform your functions under or in relation to the Act; or
 - if the disclosure or giving of access is otherwise required or permitted by law; or
 - if the person to whom the information relates agrees to the disclosure or giving of access and the person is an adult when the agreement is given.
- Section 530 of the *Mental Health Act 2000* allows the Director of Mental Health, or any other officer, employee or agent of the Department of Health, to disclose to a person who is exercising a power or performing a function under the Mental Health Act information that is subject to confidentiality under section 63 of the *Health Services Act 1991*, or section 147 of the *Private Health Facilities Act 1999* apply. For example Section 63 allows for the disclosure of:
 1. Information that identifies a person who is receiving or has received a public sector health service.

This type of information may be disclosed if:

- a. expressly authorised or permitted under any Act or required by operation of law;
- b. the prior consent of the person, or if they have died, their senior available next of kin has been given;
- c. the information concerns the condition of the person; and
 - (i) is communicated in general terms by a health professional in accordance with ethical standards; or

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- (ii) is communicated by a medical staff member to the next of kin or near relative of the person in accordance with ethical standards;
- d. the information is given to the Australian Red Cross Society for the purpose of tracing blood or the donor or recipient of blood;
- e. the information is required in connection with the further treatment of the person in accordance with ethical standards;
- f. it is requested by an official and it is relevant to the performance of the official's functions.
- g. the information is given to a Queensland Health Staff member who is authorised by the Director-General to receive the information and the information is in relation to a funding arrangement or required under an agreement with the Commonwealth or another State that has been prescribed by regulation for the purposes of s.63 of the *Health Services Act 1991*.
2. Information about confidential affairs and concerns of the Tribunal and its business matters including personnel files, financial transactions and business records.

This type of information can be disclosed:

- a. if that is required in the performance of an employees duties;
- b. to another staff member or the Court for the purpose of complying with a subpoena or other court ordered access, managing legal action or a compulsory request for information under any other Act (eg. FOI Act);
- c. if directed or authorised by the Director-General/President.
- Sections 524 – 527 prohibit or limit publication of reports and decisions pertaining to the Mental Health Court and Court of Appeal, certain other proceedings, young persons and information contained in a notice given under a notification order.
 - Section 8(i) specifies that one of the general principles for administration of the Act is that a person's right to confidentiality of information about the person must be recognised and taken into account.
 - A party to a proceeding must be provided with an opportunity to inspect documents the Tribunal proposes to have regard to in making a decision (Section 459(4)).

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- The natural justice requirement of section 459(4) can be displaced where the Tribunal makes a confidentiality order (section 458). In making an order the Tribunal may prohibit or restrict disclosure of information given to the tribunal, matters contained in documents received by the Tribunal and the Tribunal's reasons for decision to a person or patient.
 - Various provisions of the Act require the Tribunal to give notices to certain persons, for example, the Director of Mental Health or the administrator of the patient's treating health service, the patient, allied person and in some cases the Attorney General. These notices generally contain personal information pertaining to patients. Examples of the notices/documents given include:
 - notice of hearing of application for patient to move out of Queensland (section 172) and notice of decision in respect of this issue (section 174)
 - notice of hearing of application for review (section 189) and notice of decision in respect of this issue (section 192)
 - notice of hearing of application for review of young patients detained in high security units (section 196) and notice of decision in respect of this issue (section 198)
 - notice of hearing of application for review of forensic patients (section 202) and notice of decision in respect of this issue (section 205)
 - notice of hearing of application for review of a person's fitness for trial (section 211) and notice of decision in respect of this issue (section 213)
 - notice of a notification order (section 226)
 - notice of hearing of application for certain treatments (section 232) and notice of decision in respect of this issue (section 234).
 - statement of reasons, where requested (sections 192,199,203,213,226,234)
 - written report to the Attorney General where the patient is found to be unfit for trial (section 212)
 - statement of reasons and disclosure of the information the subject of a confidentiality order to the lawyer or agent of the patient (section 458(3)).
 - non contact order and statement of reasons in respect of the decision (s.228D, s.228E).

Data Quality (NPP 3)

- Section 522 of the *Mental Health Act 2000* establishes an offence to state anything in any document required or permitted to be made under the Act that the person knows is false or misleading.

Access and Correction (NPP 6)

The *Freedom of Information Act 1992* is the principal legislative instrument for access to and correction of records.

Schedule 2

Other legislation dealing with privacy issues

Collection (NPPs 1 and 10) & Anonymity (NPP 8)

Anti-Discrimination Act 1991
Crime and Misconduct Act 2001
Equal Opportunity in Public Employment Act 1992
Guardianship and Administration Act 2000
Judicial Review Act 1991
Ombudsman Act 2001
Powers of Attorney Act 1998
Whistleblowers Protection Act 1994

Use and Disclosure (NPP 2) & Transborder Data Flows (NPP 9)

Commissions of Inquiry Act 1950
Crime and Misconduct Act 2001
Guardianship and Administration Act 2000
Industrial Relations Act 1999
Ombudsman Act 2001
Public Sector Ethics Act 1994
Public Service Act 1996
Powers of Attorney Act 1998
Whistleblowers Protection Act 1994
Workcover Queensland Act 1996
Workplace Health and Safety Act 1995
Workplace Relations Act 1996 (Clth)

Data Quality (NPP 3)

Workcover Queensland Act 1996
Industrial Relations Act 1999

Data Security (NPP 4)

Public Records Act 2002

Openness (NPP 5)

Freedom of Information Act 1992

Access and Correction (NPP 6)

Freedom of Information Act 1992
Public Service Regulation 1997

Commonwealth Identifiers (NPP 7)

Privacy Act 1988 (Clth) – with respect to Tax File Numbers only

Schedule 3

Policies on the Management of Personal Information

Queensland Government Policies

The Department of Innovation and Information Economy Sport and Recreation issue information standards. The purpose of these standards is to assist Government agencies in developing best practice in the management and use of information collected by the agency and communication technology resources. The standards are issued pursuant to the *Financial Management Standard* 1997.

Many of the Information Standards deal with aspects of a numbers of National Privacy Principles as opposed to focusing on one NPP.

In conjunction with the Information Standards the State Archivist may make policy, standards and guidelines about the making, keeping, preserving, managing and disposing of public records (*Public Records Act* 2002 Section 25).

By virtue of the *Public Records Act* 2002 the Mental Health Review Tribunal is deemed a Government agency. The Act requires that the Executive Officer of a public authority to ensure that the authority complies with policies, standards or guidelines made by the archivist.

Collection (NPPs 1 and 10)

- Information Standard 24, *Policies for the Management of Information within Government*

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- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

*Use and Disclosure (NPP 2) &
Transborder Data Flows (NPP 9)*

- Information Standard 24, *Policies for the Management of Information within Government*
- Information Standard 26, *Internet*
- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Data Quality (NPP 3)

- Information Standard 24, *Policies for the Management of Information within Government*
- Information Standard 26, *Internet*
- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)
- Information Standard 41, *Managing Technology-Dependent Records* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Data Security (NPP 4)

- Information Standard 18, *Information Security*
- Information Standard 26, *Internet*
- Information Standard 24, *Policies for the Management of Information within Government*
- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)
- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is

extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

- Information Standard 41, *Managing Technology-Dependent Records* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Openness (NPP 5)

- Information Standard 24, *Policies for the Management of Information within Government*
- Information Standard 33, *Information Access and Pricing*
- Information Standard 34, *Resource Discovery*
- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Mental Health Review Tribunal Policies

Having been in operation for only a short time the Tribunal is progressively developing policies regarding the management and use of information collected by the Tribunal.

Collection (NPPs 1 and 10)

- Records Management Operational Procedure v.1.00

Use and Disclosure (NPP 2)

- Records Management Operational Procedure v.1.00
- Document Control Operational Procedure v.1.00

Data Quality (NPP 3)

- Records Management Operational Procedure v.1.00
- Saving Electronic Records Operational Procedure v.1.00

Data Security (NPP 4)

- Records Management Operational Procedure v.1.00
- Document Control Operational Procedure v.1.00
- Saving Electronic Records Operational Procedure v.1.00

Schedule 4

Personal Information held by the Mental Health Review Tribunal

Employee Personal Information

The purpose of collating employee records is to maintain recruitment and employment history and payroll information relating to all permanent, contract and temporary staff members and employees of the Mental Health Review Tribunal, including part time Tribunal members.

Records

The types of employee records held by the Tribunal may include: personnel records, delegations, recruitment and selection, leave, performance management, staff development/training, workplace health and safety, EEO and discrimination and grievances.

Contents

The contents of these records may include: name, address, date of birth, next of kin, position details, leave records, EEO data, salary details, outcomes from performance, probationary and increment reviews, recruitment materials including position applications and resumes and outcomes from security clearances.

Disclosure

Employee records may be accessed by: the Mental Health Review Tribunal President, Executive Officer and Business Manager, supervisors and members of selection panels and the individual to whom the record relates.

Information contained in employee records may also be disclosed, by law, to:

- Australian Taxation Office
- Government Agencies
- Qsuper
- Third parties such as financial institutions (name and account numbers, verification of employment etc.)
- Legal representatives
- Courts

Security

These records are stored in paper and electronic forms at the Office of the Mental Health Review Tribunal. Access to these files is limited by a security “access levels” system. For the main part access is restricted to the Tribunal staff outlined above.

Employee records are currently kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

The Mental Health Review Tribunal is working together with the State Archivist to develop a disposal and retention policy for the Tribunal and to implement Information Standards 40 & 41 on the management of records, recently endorsed by the State Archivist.

Patient Personal Information

Patient records are utilised by the Mental Health Review Tribunal in the discharge of the Tribunal's functions under the *Mental Health Act 2000*. Patient records are necessary for the Tribunal to conduct reviews of a patient's order and to hear applications for review as provided for under the *Mental Health Act 2000*.

Content

The content of Mental Health Review Tribunal patient files may include: name, address, date of birth, contact persons (next of kin, guardian, lawyer, agent, attorney), names of treating medical practitioners, hospital admission details, treatment plans and orders, clinical reports, psychiatric history, discharge notices, change of category notices, details of criminal charges, criminal history, brief of evidence relating to charges (including witness statements, records of interview), record of court proceedings, findings of judge or jury, finding of Mental Health Court (previously Mental Health Tribunal), decisions of the Mental Health Review Tribunal (previously the Patient Review Tribunal), information pertaining to or forwarded by victims/victims families, friends or relatives of a patient and other third parties.

Disclosure

These files are accessed by: Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff, Tribunal members and the patient to whom the file relates.

Limited personal information is provided to hospital administrators, medical practitioners, the Attorney General, the Director of Mental Health and the patient's lawyer (if applicable), allied person and guardian.

The disclosure of information contained in the patient records is in accordance with the legislative provisions outlined in the Mental Health Review Tribunal Privacy Plan Schedule 1, and Tribunal protocols.

Security

These records are stored on paper and in electronic form in the Mental Health Review Tribunal Office, and in secure commercial off-site storage facilities that comply with Queensland State Archives standards for environmental storage conditions.

The Patient Tracking System (PTS) is the information system used by the Mental Health Review Tribunal. The PTS is capable of supporting various

levels of access. The system controls which functions each user can access. For example, a certain user may not have access to modify or delete functions. Only employees of the MHRT's office have access to the system.

The PTS has a login security feature to prevent unauthorised users from entering the system. When a user attempts to enter PTS they must first they must first enter their User ID and Password in the login screen.

Patient records are kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

Business Management Information

Business records are maintained by the Mental Health Review Tribunal for the purposes of processing and monitoring expenditure and revenue and managing the Tribunal's budget.

Records

The types of business records maintained by the Tribunal may include: contract and agreements, quotes, applications for tender, invoices and receipts.

The content of business records may include: vendor/supplier, name, address, service or goods category, contract details, financial institution details and transaction history including debts.

Disclosure

These records are accessed by: Mental Health Review Tribunal President, Business Manager, Executive Officer and administration staff.

Security

Business records are maintained according to the Retention and Disposal Schedule issued by Queensland State Archives. These records are stored at the Office of the Mental Health Review Tribunal in both paper and electronic forms.

Personal Information of other parties

The Mental Health Review Tribunal maintains personal information in relation to various parties for the purposes of carrying out the business of the Tribunal.

Content

Information held may include personal information pertaining to: contact persons and practitioners at the Mental Health Services/hospitals, members of consumer groups, victims of crime and their families, employees of other government departments and agencies, persons making enquires.

The personal information held in regards to the above parties is, in most cases, limited. The information held may include: name, contact details, position title, employer, nature of the inquiry, offenders name, details of offences, victims response to offences.

Disclosure

Personal information relating to other parties may be accessed by : Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Business Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff, Tribunal members.

Security

Such information is stored in paper and electronic form at the Mental Health Review Tribunal Office.

These records are kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

Tribunal Documentation

The Mental Health Review Tribunal collates numerous documents in the completion of its functions under the *Mental Health Act 2000*.

Records

Documents prepared or received, and subsequently collated on file, by the Tribunal include:

- Applications for reviews, treatment applications, for approval to move out of Queensland, notification order
- Notices of hearing
- Attendance notices
- Psychiatric reports
- Patient information reports
- Report to the Attorney General
- Decisions of the Tribunal
- Non contact, notification and confidentiality and examination orders
- Record of proceedings
- Statement of reasons

The above documentation is completed in accordance with statutory requirements and for the purposes of determining the matters to be heard by the Tribunal and coordinating Tribunal hearings. The above documentation forms part of the register of all matters heard by the Tribunal required under the *Mental Health Act 2000*.

Content

The documentation may include: the names of Tribunal members, treating practitioners, patients, applicant and parties to proceeding legal representatives and other persons such as allied persons, patient address, allied persons address, treatment details, hospital admission details, psychiatric history, medication details, criminal history and details of alleged offences, grounds on which an application is made or a review sought, summary of evidence given by the parties at the hearing, order of the Tribunal.

Disclosure

Tribunal documentation may be accessed by; Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff, Tribunal members, the Mental Health Court (where there is an appeal against a decision of the Tribunal) and the patient to whom the file relates.

The disclosure of information contained in Tribunal documents is in accordance with the legislative provisions outlined in the Mental Health Review Tribunal Privacy Plan Schedule 1.

Security

Tribunal documents are filed on the patient file and therefore are stored in paper and electronic form in the Mental Health Review Tribunal Office, and in secure commercial off-site storage facilities that comply with Queensland State Archives standards for environmental storage conditions.

Tribunal documents are kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

Corporate Business Information

An array of documents are drafted in the day to day operation of the Mental Health Review Tribunal.

Records

The types of documents produced include: general correspondence, minutes of meetings, Tribunal policies, protocols and procedures, ministerials, responses to requests for information and complaints.

Contents

Corporate Business records may contain: the names of Tribunal members, staff names, treating practitioners, patients, applicant and parties to proceeding, legal representatives and other persons such as allied persons, decisions and orders of the Tribunal, treatment details, hospital admission details, psychiatric history, medication details, criminal history and details of alleged offences, vendor/supplier name, address, service or goods category,

contract details, transaction history including debts, third party name, contact details, position title, employer, nature of the inquiry, offenders name, details of offences, victims response to offences.

Disclosure

Tribunal documentation may be accessed by: Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Business Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff and Tribunal members.

Security

Corporate documentation is stored in paper and electronic form in the Mental Health Review Tribunal Office.

Corporate documents are kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

APPENDIX 2

Radiation Advisory Council

Legislative Requirements

The Radiation Advisory Council is a statutory authority established under section 161 of the *Radiation Safety Act 1999*. The Council oversees the administration of the Act. The Council must comply with the National Privacy Principles (NPPs) contained in Queensland Government Information Standard 42A. The Council is also subject to the *Freedom of Information Act 1992*, and the *Public Records Act 2002*.

The Council has the following functions:

1. To examine, and make recommendations to the Minister about, the following:
 - (a) the operation and application of the Act;
 - (b) proposed amendments to the Act;
 - (c) radiation safety standards;
 - (d) issues relating to radiation;
 - (e) research into radiation practices carried out, and the transport of radioactive materials, in the State.
2. To advise the chief executive about the merits of an application for review of an original decision made under the Act and referred to it by the chief executive.
3. To oversee the operation of the Council's committees.

Implementation Schedule

The commencement date for the NPPs under IS42A was 1 September 2002. The Privacy Plan will be reviewed annually, and updated as necessary.

Types of personal and other information held by the Council

The Council, on behalf of the Minister, collects and stores, the following information:

1. Selection information: this information consists of curriculum vitae provided by all individuals submitting an expression of interest in

membership to the Council. Curriculum vitae are kept in paper form only.

Content of curriculum vitae may consist of the applicant's name, address, date of birth, occupation, qualifications, employment history and academic records/achievements and membership of professional organisations.

2. Budget/Finance information: this information consists of budget and expenditure costs of the Council and may include name and contact details of suppliers and or vendors. The information is kept in both electronic and paper form.
3. Member fees: this information consists of banking details of Council members, meeting attendance records of members, motor vehicle allowance requests and payments, and correspondence on financial matters. This information is kept in both electronic and paper form.
4. Council agendas and minutes: this information may consist of such things as ongoing business, topics for consideration of Council, reports on the business of Radiation Health (key progress/achievements). All minutes and some agenda items are kept in both paper and electronic form.
5. Correspondence: this information consists of incoming and outgoing correspondence of the Council in both paper and electronic form. These records may contain personal information including name and address, sensitive information in the form of health information, or personal opinions on matters associated with the business of Council.

The following staff have access to the above information :

- Staff of Radiation Health, Environmental Health Unit

Records are retained according to the applicable provisions of the General Disposal and Retention Schedule for Administrative Records prepared by Queensland State Archives.

Location of personal and other information - All of the above information is located at 450 Gregory Terrace, Fortitude Valley Qld 4006.

Procedures to gain access to personal information

Access to personal information held by the Council is through the provisions of the Freedom of Information Act. All applications are to be in writing, and the application must contain sufficient information concerning the document(s) required as is reasonably necessary to enable these to be identified. The

application should also specify an address to which a decision in relation to the application may be sent. Applications should be addressed to:

The Chairperson
Radiation Advisory Council
PO Box 2012
FORTITUDE VALLEY QLD 4006

If you have any queries about this process, please contact Council's Freedom of Information Officer on (07) 3406 8006.

Review Procedures

If an individual believes that their personal information has not been dealt with in accordance with an NPP they may make a complaint to the Council seeking an internal review. A request for an internal review must be made in writing and must be made within six months from the date when the breach was suspected to have occurred. Requests should be forwarded to The Chairperson, Radiation Advisory Council, PO Box 2012, Fortitude Valley Qld 4006.

Requests for review will be acknowledged in writing within 14 days from the date on which the application was received, and the Council will process the request within 60 days from the date on which the application was received. Applicants will be advised in writing of the decision.

If an applicant does not agree with the decision they may request an internal review. The Chief Executive will arrange for an internal review to be carried out by an officer who has not previously been involved in the matter. This will be done within 45 days. The Chief Executive will provide a response in writing to the applicant.

Privacy Contact Officer

The Chairperson
Radiation Advisory Council
450 Gregory Terrace
FORTITUDE VALLEY QLD 4006.

Postal address: PO Box 2012
FORTITUDE VALLEY QLD 4006

APPENDIX 3

Professional Conduct Review Panels

Legislative Requirements Relating to Personal Information that will supersede the NPPS

Health Practitioners (Professional Standards) Act 1999

Freedom of Information Act 1992

Types of Personal Information Held by Professional Conduct Review Panels Secretariat

The Secretariat collects, stores and uses:

- Employee personal information, refer to Schedule 1
- Panels of Assessors personal information, refer to Schedule 2
- Disciplinary proceedings personal information, refer to Schedule 3

List of Existing Contracts, Licenses and Outsourcing Arrangements

None

Implementation Timetable

The Professional Conduct Review Panels Secretariat has been compliant with the NPPs in IS42A since 31 December 2002.

Procedure to Gain Access to Personal Information

Right of access and correction under the NPPs in the privacy scheme detailed in Information Standard 42A is limited to existing rights under the *Freedom of Information Act 1992*.

The Secretary, Professional Conduct Review Panels should be contacted on telephone (07) 3405 5798 for information on how to make an access request under the *Freedom of Information Act 1992* in relation to information held by the Professional Conduct Review Panels.

If an individual believes that their personal information has not been dealt with in accordance with an NPP they may make a complaint in writing to the Secretary, Professional Conduct Review Panels, GPO Box 48, Brisbane, Queensland 4001.

Complaints will be acknowledged in writing within 14 days from the date on which the application was received, and the Secretary will process the request within 60 days from the date on which the application was received. Applicants will be advised in writing of the Secretary's decision.

A complaint may also be made to the Ombudsman. The Ombudsman can be contacted on telephone (07) 3005 7000, at Level 25, 288 Edward Street, Brisbane Q 4000.

If a complaint is made to the Secretary, and an applicant does not agree with the Secretary's decision, the Ombudsman can review the Secretary's decision.

Schedule 1: Employee/personnel records

The purpose of these records is to maintain payroll and administrative information relating to all permanent and temporary staff members and employees of the Professional Conduct Review Panels.

The following staff have access to this information :

- Secretary, Professional Conduct Review Panels
- Administrative Officer, Professional Conduct Review Panels

Personnel records are retained according to the applicable provisions of the *Queensland Health Disposal and Retention Schedule for Administration Records*.

Individuals may seek access to their records by contacting the Professional Conduct Review Panels Freedom of Information Officer on telephone no. 340 55798

The records held relate to files and are kept at Queensland Health Building, Charlotte Street, Brisbane.

Schedule 2: Panels of Assessors employee/personnel information

The purpose of these records is to maintain professional qualifications, skills, memberships and employment history, and payroll information relating to all members of the professional and public panels of assessors.

The following staff have access to this information :

- Secretary, Professional Conduct Review Panels
- Administrative Officer, Professional Conduct Review Panels

Personnel records are retained according to the applicable provisions of the *Queensland Health Disposal and Retention Schedule for Administration Records*.

Individuals may seek access to their records by contacting the Professional Conduct Review Panels Freedom of Information Officer on telephone no. 340 55798

The records held relate to files and are kept on paper and electronic media. These records are held at Queensland Health Building, Charlotte Street, Brisbane.

Schedule 3 :Disciplinary proceedings information

The purpose of these records is to enable professional conduct review panels to conduct disciplinary proceedings concerning registered health practitioners and to make decisions relating to those proceedings as required by the *Health Practitioners (Professional Standards) Act 1999*. The contents of the records includes evidentiary material such as statutory declarations relating to practitioners' professional conduct, transcript of hearings, members' records of hearings and relate to varied physical evidence for example labelled medication.

The following staff have access to this information :

- Secretary, Professional Conduct Review Panels
- Administrative Officer, Professional Conduct Review Panels

The records held relate to files and are kept on paper and electronic media. These records are held at Queensland Health Building, Charlotte Street, Brisbane.

APPENDIX 4

Health Rights Advisory Council

Introduction

The Health Rights Advisory Council (HRAC) is established under the *Health Rights Commission Act 1991*.

The HRAC assists and performs functions connected with the Health Rights Commission whose functions relate to the oversight, review and improvement of health services.

The functions of the HRAC are —

- (a) to advise the Minister for Health in relation to —
 - (i) the redress of grievances relating to health services; and
 - (ii) the means of advising, educating and informing providers and users of health services; and
 - (iii) the general operation of the Health Rights Commission; and
 - (iv) any matter on which the Minister requests advice; and
- (b) to advise the Health Rights Commissioner in relation to the redress of health service complaints generally; and
- (c) to refer matters relating to health service complaints to the Health Rights Commissioner for advice.

In the course of discharging its functions, the HRAC rarely has referred to it, collects, uses or discloses personal information.

However, on those rare occasions such information may be used only for purposes authorised by law.

The Queensland Privacy Scheme and the HRAC

The privacy scheme approved by the Queensland Cabinet which is to be introduced into the Queensland public sector provides for the Health Rights Advisory Council to be subject to Information Standard 42A (IS42A). The HRAC will therefore comply with the National Privacy Principles (NPPs) in IS42A.

The National Privacy Principles

The NPPs govern the manner in which *personal information* is collected, used and disclosed.

Personal Information for the purpose of the NPPs as they relate to the collection, use and disclosure of information means:

“... 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”.

Most of the information referred to, or collected, used or disclosed by, the HRAC for the purpose of discharging its statutory functions does not identify individuals or allow the identity of individuals to be ascertained. Consequently, the NPPs have no relevance to most of the HRAC’s activities.

The definition of *personal information* does not include information about deceased persons or information which is publicly available.

The definition includes information about an individual in their professional or business capacity but does not apply in relation to applications for access to, or to amend, personal information.

Access to Personal Information

Individuals are entitled to apply to:

- (1) access records containing personal information; and
- (2) to alter those records if they are inaccurate in accordance with Queensland laws.

This means that if a person applies to the HRAC for access to personal information or to amend personal information the application will be processed under the *Freedom of Information Act 1992* as amended and the NPPs will not apply to that application.

A person can apply under that Act for access to documents concerning their “personal affairs”. The interpretation of that expression is different to the definition of *personal information* which applies to the NPPs and usually excludes information about an individual in their professional or business capacity.

However, a person may apply for access to documents which do not concern their personal affairs. The grounds upon which access may properly be refused are broader and they are less likely to be successful in their application. If such an application concerns the personal affairs of another

person access may be refused or restricted in order to protect the privacy of that other person.

Further Information about the NPPs

The NPPs are accessible in full in Information Standard 42A on the website of the Department of Innovation and Information Economy at <http://www.iie.qld.gov.au/comminfo/guidelines.html>

The HRAC Privacy Plan

The occasions when the HRAC collects, uses and discloses *personal information* and allows access to documents are rare. There are presently strict legal requirements that provide for such occasions.

The purpose of this privacy plan is to confirm the framework for the responsible collection and handling of *personal information* in the HRAC in accordance with the NPPs.

The Records of Personal Information kept by the HRAC

Personal Information relating to the Discharge of the HRAC's Statutory Functions

The HRAC discharges its specified functions under the *Health Rights Commission Act 1991*.

As previously indicated, the HRAC's activities rarely involve the collection, storage or use of personal information.

However, the personal information which may potentially come into its possession might include information about persons complaining about health service provision, the deceased relatives or friends of complainants, health care providers and independent medical experts and may consist of information and/or an opinion about:

- Names, addresses and telephone numbers of complainants, health care providers and independent experts;
- personal details of individuals such as their date of birth;
- medical records of individuals;
- the health or disability of an individual;
- an individual's expressed wishes about the provision of health services to them;
- a health service provided or to be provided to an individual;
- medical reports of experts;
- a complainant's relationships if that information is relevant to their complaint;
- details of allegations made about named individuals in health service complaints;

-
- statements made by named individuals who are the subject of health service complaints;
 - opinions of experts concerning the standard of health care given by named individuals;
 - areas of expertise of independent experts; and
 - any other persons who may be assisting an investigation or inquiry.

The HRAC maintains, at the Health Rights Commission, records in Microsoft Word and hard copy files which may potentially contain the above mentioned personal information.

The President of the HRAC may possess copies of records maintained on behalf of the HRAC at the Health Rights Commission and members of the HRAC may also have in their possession documents which have formed agenda items for Council meetings.

Hitherto, no HRAC records have been destroyed. These records are maintained in accordance with the *Public Records Act 2002* and would only be destroyed in accordance with that Act.

All individuals who gain access to confidential information through their involvement in the HRAC are subject to the strict legal obligation of confidentiality imposed by section 141 of the *Health Rights Commission Act 1991* which provides that no-one may record, disclose or use any confidential information except:

- for the purpose of the Act;
- when expressly authorised under another Act;
- in the case of a registered health service provider – for the purpose of the *Health Practitioners (Professional Standards) Act 1999* or the *Nursing Act 1992*; or
- when authorised under a regulation.

The persons who may have access to personal information contained in the records of the HRAC are:

- the Health Rights Commissioner when authorised or required by law;
- the Minister for Health when authorised or required by law;
- members of staff of the Health Rights Commission who may from time to time be assigned to do work relating to the HRAC; and
- a member of the HRAC.

Other bodies to whom personal information coming into the possession of the HRAC may potentially be given are:

- the Ombudsman upon an investigation of administrative action under the *Ombudsman Act 2001*;

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- the Information Commissioner upon an application for external review of a decision to refuse or restrict access to information by an applicant under the *Freedom of Information Act 1992*.

Corporate Records

The HRAC employs no staff and consequently has no staff records. The HRAC's records identify the names, contact details and qualifications of members of the HRAC.

Financial Management Information Systems

The HRAC budget is used to pay fees and allowances to members and the operating expenses of the Council.

The HRAC's corporate records and financial management information systems may be kept on paper and electronic files. Paper files are kept in a lockable storage unit and electronic files are password protected.

The following may have access to the records: the President of the HRAC; members of the HRAC; the Health Rights Commissioner and any of his staff who are so authorised by him on a "need to know" basis.

The records are kept according to the categories set out in the standard Retention and Disposal Schedule issued by Queensland State Archives.

Individuals can obtain information regarding access to their personal information by contacting the Secretary of the HRAC (07 3234 1286).

Information Systems Personal Information

The HRAC uses the Health Rights Commission's information technology information management system. This network routinely carries, enables processing of, and stores, for varying periods, much of the core business and the supporting corporate service business of the Health Rights Commission and may be used for HRAC purposes.

It encompasses both internal electronic transactions and external transactions, including telephone, e-mail, internet and government intranet activity. The great bulk of those personal information records within that network environment are described above, or are described in the other parts of this plan that deal with the content of core business operations of the HRAC.

In addition to that material, there are some personal information records specifically tailored to IT system administration, namely IT system security identifiers and usage tracking records about staff users of the IT system that are held by central IT administrators and staff supervisors.

That information is not usually disclosed to persons other than Health Rights Commission staff supervisors, system administrators and the individual officers concerned. Staff are routinely made aware of system usage rules and monitoring procedures concerning collection and use of the information.

The records are stored on paper and electronic media.

Individuals can obtain information regarding access to their personal information by contacting the Secretary of the HRAC (07 3234 1286).

Ministerial Correspondence

The HRAC may engage in correspondence with the Minister for Health. Records of such correspondence may potentially comprise inwards correspondence that has been referred to the HRAC by the Minister for Health or his/her office staff from the public or other government agencies on matters of official business of the Minister's portfolio.

Such correspondence may be referred to the HRAC for consideration and preparation of advice and responses.

The HRAC also corresponds with the Minister for Health in the provision of advices for the purposes of the *Health Rights Commission Act 1991*

The HRAC keeps copies of the inwards and outwards documentation of any such Ministerial correspondence in electronic and paper form.

Those records may potentially include personal information, which might arise in any subject matter related to portfolio responsibilities. Examples are: names, addresses, personal opinions about public administration matters, occupational and organisational information about persons, complaints and grievances subject matter, and any other matter that the correspondent wishes to convey to the Minister about themselves or personally identifiable third parties in government or amongst the public.

The President and members of the HRAC, the Health Rights Commissioner and any of his staff so authorised by him on a "need to know basis" may have access to any such Ministerial correspondence. The information is not usually disclosed to other persons or organisations.

The records under the control of the HRAC which may contain such personal information are retained for periods provided under the standard Retention and Disposal Schedule authorised by State Archives.

Individuals can obtain information regarding access to their personal information in the ministerial correspondence records by contacting the Minister's office, or the Secretary of the HRAC (07 3234 1286).

List of Existing Contracts, Licenses and Outsourcing Arrangements Identified

The HRAC does not have any existing Contracts, Licenses or Outsourcing arrangements other than with the Health Rights Commission which provides administrative support to the HRAC and is, itself, subject to the privacy scheme.

List of Public Registers Managed within the Health Rights Advisory Council

The Health Rights Advisory Council does not maintain any public registers storing personal information.

Implementation Timetable

The commencement date for the NPPs under IS42A is 8 September 2003.

The HRAC will identify any respect in which it may not be complying or it could improve its compliance with the NPPs and will amend its policies and practices accordingly.

It will promote awareness of the requirements of the NPPs within the HRAC by:

- distributing IS42A within the HRAC and preparing a summary drawing attention to particular aspects of the NPPs as they may potentially relate to the activities of the HRAC; and
- providing for the HRAC to seek the advice of the Privacy Contact Officer when privacy issues arise.

The HRAC will keep its Privacy Scheme under review. It will review its Privacy Plan at least annually. The Privacy Contact Officer will report to the HRAC any privacy issues which may arise and the HRAC will amend its policies and practices in the light of experience if desirable to do so.

Procedure to Gain Access to Personal Information

The *Freedom of Information Act 1992* provides that every person has the right to:

- seek access to documents held by government, subject to specific exemptions necessary to protect the workings of government, business and personal affairs;

-
- seek the amendment of personal information held by government which is inaccurate, incomplete, out-of-date or misleading; and
 - inspect information about an agency's published structure and functions.

Persons seeking to access documents under the *Freedom of Information Act 1992* must satisfy the following requirements:

- the application must be in writing – the HRC has developed a Freedom of Information Application form which is available by contacting the Commission on (07) 3234 0272 (Toll Free 1800 077 308 outside Brisbane). However, applicants are not required to use the form if they do not wish;
- the application must provide sufficient information necessary to identify the documents sought;
- the application must specify an address to which the decision may be sent to the applicant; and
- where the documents relate to the personal affairs of a person, that person must provide proof of identity before the documents will be released.

Persons seeking to have documents amended in addition to the above must:

- provide information to support the applicants' belief that the information contained in the documents is *inaccurate, incomplete, out-of-date or misleading*; and
- the application should specify the amendments that the applicant wishes to be made.

Section 9(2) of the *Freedom of Information Act 1992* provides that, for the purposes of that Act, an unincorporated body established by or under an enactment for the purpose of assisting, or performing functions connected with a public authority is not a separate public authority, but is taken to be comprised within the public authority.

It is considered that the HRAC stands in that relationship with the Health Rights Commission. Applications in writing should therefore be posted to: the Freedom of Information Decision Maker, Health Rights Commission GPO Box 3089, BRISBANE QLD 4001.

Review Procedure

If an individual believes that their personal information has not been dealt with in accordance with a NPP they may make a complaint to the HRAC's Privacy Contact Officer. A complaint must be made in writing stating the facts which

the individual believes demonstrates that a breach of the NPPs has occurred and must be made within six months from the date when the breach was suspected to have occurred.

Complaints should be forwarded to the Privacy Contact Officer, Health Rights Advisory Council c/o the Health Rights Commission, GPO Box 3089, BRISBANE QLD 4001. Complaints will not be accepted by e-mail.

The Privacy Contact Officer can provide more information about complaint handling procedures.

The Privacy Contact Officer will acknowledge the complaint in writing within 14 days from the date on which it was received, and will process the complaint within two calendar months from the date on which it was received. Complainants will be advised in writing of the Privacy Contact Officer's decision including any remedies that are considered appropriate to resolve the complaint.

If a complainant does not agree with the Privacy Contact Officer's decision they may request an internal review. A request for an internal review should be in writing addressed to the President of the Health Rights Advisory Council and should be received by him within one calendar month of the complainant receiving the initial complaint decision notice.

The postal address for requests for internal review is: The President, Health Rights Advisory Council c/o the Health Rights Commission, GPO Box 3089, BRISBANE QLD 4001. Requests will not be accepted by e-mail.

The President of the HRAC will either carry out the review personally or will arrange for an internal review to be carried out by an officer of the Health Rights Commission. The reviewing officer so appointed must be more senior than the Privacy Contact Officer and must not have been previously involved in the matter. The internal review will be completed within six weeks of receipt of the request for internal review. The President of the HRAC will provide a response in writing to the individual who requested the internal review.