

Privacy plan

Privacy and Right to Information Unit
September 2017

Privacy plan

Published by the State of Queensland (Queensland Health), May 2015



This document is licensed under a Creative Commons Attribution 3.0 Australia licence. To view a copy of this licence, visit creativecommons.org/licenses/by/3.0/au

© State of Queensland (Queensland Health) 2015

You are free to copy, communicate and adapt the work, as long as you attribute the State of Queensland (Queensland Health).

For more information contact:

Privacy and Right to Information Unit, Department of Health, GPO Box 48, Brisbane QLD 4001, email RTI-Privacy@health.qld.gov.au, phone (07) 3234 1735.

An electronic version of this document is available at www.health.qld.gov.au

Disclaimer:

The content presented in this publication is distributed by the Queensland Government as an information source only. The State of Queensland makes no statements, representations or warranties about the accuracy, completeness or reliability of any information contained in this publication. The State of Queensland disclaims all responsibility and all liability (including without limitation for liability in negligence) for all expenses, losses, damages and costs you might incur as a result of the information being inaccurate or incomplete in any way, and for any reason reliance was placed on such information.

Contents

What is this plan?	1
About the Department of Health	1
What is personal information?	1
What is sensitive personal information?	2
What is confidential information?	2
What personal information do we collect?	2
How is my personal information managed?	3
Quality of your personal information.....	3
Security of your personal information.....	3
Contracted service providers and your personal information.....	4
Transferring personal information outside of Australia	4
Exceptions to the <i>Information Privacy Act 2009</i>	4
Legislative obligations under the <i>Hospital and Health Boards Act 2011</i>	5
Commonwealth <i>Privacy Act 1988</i>	5
How does the department use and disclose personal information?	5
What does use and disclosure mean?	5
Use and disclosure of personal and health information	5
How can I apply to access or amend my personal information?.....	6
How to apply for access.....	6
Administrative access to your health records	6
Administrative access to Queensland Ambulance Service patient records	7
Administrative access to personnel records	7
Current employees	7
Former employees.....	7
Right to information and information privacy applications.....	8
How to make an application for access.....	8
How to make an amendment application	8
How to make a privacy complaint.....	8
How to contact us.....	9
Appendix 1	10
Quick guide to the national privacy principles	10
NPP1: collection	10
NPP2: use and disclosure.....	10
NPPs 3 and 4: information quality and security	10
NPP5: openness.....	10
NPPs 6 and 7: access and correction	10
NPP8: anonymity	10
NPP9: sensitive information.....	10
Appendix 2	11
Types of personal information held by the Department of Health	11
Sensitive personal information	11
Health information	12

What is this plan?

The *Information Privacy Act 2009* (Qld) (IP Act):

- regulates how Queensland government agencies, including the Department of Health, must manage personal information
- provides a right for individuals to apply for access and amendment of their personal information.

The Department of Health is required to comply with the Privacy Principles outlined in the IP Act, in particular, the National Privacy Principles (NPPs)—refer to [Appendix 1](#). These privacy principles include rules about the collection, use, quality, security and disclosure of personal information. They also provide conditions under which personal information may be transferred outside of Australia and rules regarding contracted service providers.

The department must take steps to ensure staff are aware of:

- the types of personal information it holds and for what purposes
- how it collects, holds, uses and discloses personal information.

The specific obligations of the Department of Health when collecting and handling your personal information are outlined in the IP Act.

This privacy plan will be updated if and when our information handling practices change.

About the Department of Health

The Department of Health is responsible for the overall management of the public health system in Queensland through the functions of the Chief Executive (i.e. Director-General), including monitoring the performance of the Hospital and Health Services (HHSs).

Further information:

- Queensland Health organisational structure (a fact sheet is available to explain the role of the Department of Health and the HHSs)
www.health.qld.gov.au/system-governance/health-system/managing/org-structure/default.asp
- Legislation administered by the Department of Health
www.qld.gov.au/about/how-government-works/government-responsibilities/

What is personal information?

Personal information is any information or opinion about an identifiable living individual.

Your identity must be reasonably ascertainable from the information and it does not have to be expressly indicated by the information, nor does it have to be true in order for it to be your personal information.

Personal information may be in any form, such as in correspondence, databases, audio recordings, images, alpha-numerical identifiers or any combinations of these. It can also be spoken or communicated in other mediums, including sign language or social media.

What is sensitive personal information?

Sensitive information is a subset of personal information and it is important because of the heightened meaning or value to the individual concerned. Refer to [Appendix 2](#) for examples of sensitive information.

The Department of Health can only collect sensitive information in certain circumstances and must, before it discloses your sensitive personal information, take reasonable steps to ensure that you, the subject of the personal information, can no longer and cannot in the future, be identified from the personal information.

What is confidential information?

Confidential information most often relates to patients of Queensland Health who may be living or deceased.

The *Hospital and Health Boards Act 2011* (Qld) (HHB Act) defines confidential information as ‘...information, acquired by a person in the person’s capacity as a designated person, from which a person who is receiving or has received a public sector health service could be identified.’

A ‘designated person’ includes current and previous employees and officers of the department or HHS, temporary staff, health professionals, including visiting medical officers, anyone being educated or trained at a department or HHS facility, and contractors and volunteers carrying out duties on behalf of the department or HHS. Note that a designated person also includes any person who is, or was, the Commissioner for the Queensland Ambulance Service, or a Queensland Ambulance Service employee under the Department of Health.¹

Other relevant legislation may also include the *Public Health Act 2005* (Qld) and the *Mental Health Act 2000* (Qld).

What personal information do we collect?

The Department of Health collects, holds, uses and discloses personal information to carry out its functions and activities.

The department ensures personal information and handling practices are transparent and documented, and that people are given collection notices that comply with the privacy principles.

¹ Prescribed by regulation as designated persons for section 139A(1)(m) of the *Hospital and Health Boards Act 2011* and section 34C of the *Hospital and Health Boards Regulation 2012*

Large amounts of personal information, some of which is sensitive and health information, are of clients, patients, suppliers, business partners and employees. Refer to [Appendix 2](#) for examples of the types of personal information held by the department.

The *Queensland Health Information Asset Register* provides details regarding information collected for the purpose of better health outcomes for Queenslanders. The register is available at <https://www.health.qld.gov.au/hsu/pdf/other/IAR-20151123.pdf>

The Queensland Health website has privacy statements available to provide visitors and users of the website with information specific to the site's purpose, including:

- how the website is monitored
- email and feedback information
- how to access your personal information.

Privacy statements for Queensland Government websites are generally available in the footer of the website's home page.

For information regarding Queensland Health social networking services, email socialmedia@health.qld.gov.au

How is my personal information managed?

The Department of Health is committed to ensuring all personal information is managed in accordance with the privacy principles, and also in compliance with *Information Standard 18* and the *Queensland Government Information Security Classification Framework*.

Quality of your personal information

The Department of Health takes steps to ensure personal information held and collected is accurate, up-to-date and complete. These steps include maintaining and updating personal information when advised by individuals that their details have changed, and at other times as necessary.

Security of your personal information

The Department of Health takes the necessary steps to protect personal information against loss, unauthorised access, use, modification or disclosure, and against other misuse. These steps include, for example, password protection for accessing our electronic systems.

All sensitive documents must have security classifications applied to them and must be protected from unauthorised access by applying correct storage, handling and disposal methods.

When personal information is no longer required, it is destroyed in a secure manner, or deleted according to a Queensland State Archives approved retention and disposal schedule. Further information about retention and disposal is available at www.archives.qld.gov.au/Recordkeeping/RetentionDisposal/Pages/default.aspx

Contracted service providers and your personal information

The Department of Health must ensure personal information is safeguarded when disclosed to third parties in connection with the provision of a service. Where the department is contracting with a service provider, and as part of the service arrangement there will be an exchange of personal information, the department is obliged to take reasonable steps to bind the service provider to comply with the privacy principles within the IP Act as part of the contract or service agreement.

Transferring personal information outside of Australia

The Department of Health will only transfer personal information outside of Australia in compliance with the IP Act and for legitimate purposes only.

The IP Act allows the transfer of personal information outside of Australia only in certain circumstances, such as:

- when you have agreed
- the transfer is authorised or required under a law
- the department is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of any individual, or to public health, safety and welfare; or
- if two or more of the following criteria apply:
 - the recipient is subject to equivalent privacy obligations
 - the transfer is necessary to perform a function of the department
 - the transfer is for your benefit
 - reasonable steps have been taken by the department to ensure the information is protected.

An instance where the department may transfer personal information outside of Australia includes where a member of the public has requested we correspond with them using a web based email service whose servers are based in another country (e.g. Hotmail or Gmail).

Exceptions to the *Information Privacy Act 2009*

There are some limited circumstances where the Department of Health is not required to comply with the IP Act.

For example, the NPPs do not apply to de-identified information or statistical data sets which are non-identifiable (i.e. would not allow or enable individuals to be identified). In order for information to be considered 'non-identifiable', all identifiable references to the individual must be removed and the context and content of the remaining details must make it impossible to identify the individual.

The department is also not required to comply with certain privacy principles where an individual has previously published their personal information or provided it for the

purpose of publication. However, we must be satisfied that the personal information was published, or given to be published by the individual themselves.

It is also important to note that the IP Act does not apply to information of deceased persons.

Legislative obligations under the *Hospital and Health Boards Act 2011*

Under Part 7 of the HHB Act, there is a strict duty of confidentiality imposed on the Department of Health and HHS staff in relation to the protection of confidential information.

Where health information has been collected in the context of providing a health service, use and disclosure is governed by the duty of confidentiality in the HHB Act.

‘Confidential information’ under the HHB Act also includes information relevant to deceased persons (unlike the IP Act).

Commonwealth *Privacy Act 1988*

Although the Department of Health is not required to comply with the Commonwealth *Privacy Act 1988*, which includes the Australian Privacy Principles (APPs), on occasion the department may, under a contract with the Australian Government, agree to comply with the APPs. In this situation, the department will have a contractual obligation to comply with the APPs, in addition to its existing requirements to comply with the NPPs in the IP Act.

How does the department use and disclose personal information?

What does use and disclosure mean?

In broad terms, use refers to the treatment and handling of personal information within the Department of Health, particularly when it involves making decisions on the basis of the information.

Disclosure refers to making personal information available to people outside the department, other than to the individual concerned, and includes the publication of personal information.

Use and disclosure of personal and health information

The IP Act and HHB Act have different requirements relating to the use and disclosure of personal and health information.

There is no distinction made between ‘use’ and ‘disclosure’ of health information in the HHB Act. The strict rules for disclosure apply to use of health information when a person who is receiving or has received a public health service could be identified.

The Department of Health only uses your personal information for the purposes for which it was given to use, or for purposes which are directly related to one of our functions or activities. We do not give your personal information to other government agencies, organisations or anyone else unless one of the following circumstances applies:

- you (the individual) have consented
- you would reasonably expect, or have been told, that information of that kind is usually passed to those individuals, bodies or agencies
- it is otherwise required or authorised by law
- it will prevent or lessen a serious and imminent threat to somebody's life or health
- it is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of public revenue.

How can I apply to access or amend my personal information?

How to apply for access

Information about how you can make an application to apply for access to your personal information is provided below. This includes information about seeking access 'administratively' (which is generally a simpler and quicker method of seeking access) or making a formal access application under the provisions of Chapter 3 in the IP Act, or under the *Right to Information Act 2009* (Qld) (RTI Act), whichever is applicable.

Formal access or amendment applications need to be made and processed in accordance with the relevant legislation.

Access under an administrative arrangement does not affect your right to seek access to the documents under the IP Act or RTI Act. In addition, if your application cannot be processed administratively, it will generally be referred for processing under the IP Act or RTI Act, whichever is appropriate.

Administrative access to your health records

If you, as a patient, wish to access a copy of your health records, your request can generally be processed administratively by the Hospital and Health Service (HHS) facility which holds your information.

To apply for access to your health records, you will need to contact the Queensland Health facility (or facilities) you have attended.

A list of contact officers (usually known as the RTI decision makers) for Queensland HHS facilities is available at www.health.qld.gov.au/system-governance/contact-us/access-info/privacy-contacts/default.asp

Further information about accessing your health records is available at www.health.qld.gov.au/system-governance/records-privacy/health-personal/default.asp

Administrative access to Queensland Ambulance Service patient records

Queensland Ambulance Service, have an access arrangement in place to request access to patient records. These records are known as an electronic Ambulance Report Form (eARF).

To apply for access to your patient record, your request can be emailed to gaspatientrecords@ambulance.qld.gov.au or by phoning (07) 3635 3371.

Alternatively, requests can be submitted via fax on (07) 3109 7701 or posted to:

Queensland Ambulance Service
Information Support Unit
GPO Box 1425
BRISBANE QLD 4001

In order to establish your identity as the applicant, you will need to provide Queensland Ambulance Service with certified evidence of your identification, and a signed authority (if relevant). A **fee** to cover the cost of this service is payable.

For further information, visit www.ambulance.qld.gov.au/records.html.

Administrative access to personnel records

Current employees

If you are a current employee of the Department of Health, under Part 3 of the Public Service Regulation 2008, you are entitled to access your own employee record by writing to the Chief Human Resource Officer.

However, please note that in some instances, not all information can be provided through this administrative process and you may wish to make an access application under the IP Act or RTI Act.

For further information, visit www.health.qld.gov.au/system-governance/contact-us/access-info/employee-records/default.asp

Former employees

The provisions referred to above may not necessarily apply once you have ceased to be an employee of the Department of Health.

If you are a former employee of the department (and not employed by another Queensland government agency) you can contact the department's Human Resource Services, as they may be prepared to exercise discretion to grant you access to the information you seek.

However, if you have moved to another Queensland government agency, and are employed under the *Public Service Act 2008* (Qld), the access provisions in the Public Service Regulation 2008 will still apply.

Right to information and information privacy applications

How to make an application for access

Applications for access to information under the RTI Act or the IP Act must be made **in writing**.

Applications to the Department of Health may be lodged through the Queensland Government online facility or by completing the application form. Both the online lodgement facility and the application form are available at www.smartservice.qld.gov.au/services/information-requests/home.action

If you request access to any documents that do not contain your personal information (e.g. non-personal in nature, or about somebody else), then your application will need to be made under the RTI Act. There is an **application fee** payable and further **processing and access charges** may also be payable.

Applications requesting access only to documents that contain your personal information are made under the IP Act. There is **no application fee or processing charges**, however there may be access charges.

If you are seeking access to any documents that contain your personal information, either under the RTI Act or IP Act, then you will be required to provide evidence of your identity at the time of making your application or within 10 business days after lodgement.

Further information about the RTI Act and IP Act is available on the Queensland Office of the Information Commissioner's website at www.oic.qld.gov.au

How to make an amendment application

Before making a formal amendment application, you should contact the relevant area within the Department of Health as they may be able to amend your incorrect or out-of-date personal information without the need for a formal process (that is, an IP Act amendment application). The informal option will apply in many cases—for example, where you wish to update your current contact details. The department will assist you using reasonable, available and practicable informal options first.

However, if you wish to make a formal application to amend personal information under the IP Act, the application form can be downloaded and then submitted via post, fax, email or in person.

A copy of the amendment application form is available on the Queensland whole of government website at www.rti.qld.gov.au

There are **no fees or charges for applications to amend personal information**.

How to make a privacy complaint

The Department of Health takes breaches of privacy very seriously. Complaints regarding allegations of breaches of privacy are dealt with in accordance with the

department's complaints management process. Complainants are encouraged to direct their complaint to the principal privacy officer in the first instance.

If you believe that the department has not dealt with your personal information in accordance with the privacy principles outlined in the IP Act, including the NPPs, you may lodge an information privacy complaint.

Information on how to lodge a privacy complaint is available at www.health.qld.gov.au/system-governance/records-privacy/complaints/default.asp

How to contact us

For privacy related queries, please contact the Department of Health's Principal Privacy Officer on (07) 3234 1735 or email RTI-Privacy@health.qld.gov.au

For any queries relating to access and amendment applications under the RTI Act or IP Act, please direct your enquiries to:

Manager
Privacy and Right to Information Unit
Department of Health
GPO Box 48
Brisbane Queensland 4001

P: (07) 3234 1735

E: RTI-Privacy@health.qld.gov.au

Only Department of Health employees who are appropriately authorised or delegated as decision makers can undertake duties and tasks associated with the RTI and IP legislation.

If your query relates specifically to a HHS facility, you will need to contact them directly. A list of Privacy and RTI contact officers is available at www.health.qld.gov.au/system-governance/contact-us/access-info/privacy-contacts/default.asp

Appendix 1

Quick guide to the national privacy principles

NPP1: collection

The department collects only what is necessary for its functions or activities, and does so lawfully, fairly and without unnecessary intrusion. The department must collect personal information from the person it is about wherever possible, and take steps to notify a person about what information is being collected, why (including whether there is a lawful requirement to collect it) and what the department intends to do with it.

NPP2: use and disclosure

Personal information may be used and disclosed in particular circumstances. If certain conditions are met, a person's consent to use and disclose their personal information is not always necessary. There are rules if the department intends to direct market to a person through use of their personal information.

NPPs 3 and 4: information quality and security

The department must take steps to ensure the personal information held is accurate and up-to-date, and is kept secure from unauthorised access, use, modification, disclosure, destruction or loss.

NPP5: openness

The department has a policy on how personal information is managed. It must be made available to anyone who asks for it.

NPPs 6 and 7: access and correction

You have a general right of access to your own personal information. You also have a right to have such information corrected if it is inaccurate, incomplete or out-of-date.

NPP8: anonymity

Wherever possible, the department allows a person to interact with the department anonymously if they wish to do so.

NPP9: sensitive information

Sensitive information (which includes health information) is a subset of personal information and can only be collected in certain circumstances. The department must take reasonable steps to de-identify sensitive information before disclosing it.

Appendix 2

Types of personal information held by the Department of Health

The department holds personal information of clients, patients, suppliers, business partners and employees, such as:

- name
- contact details
- date of birth
- signature
- photographs
- unique physical characteristics (e.g. tattoos, birthmarks)
- fingerprint or other 'biometrics'
- driver's licence number
- financial/bank details
- educational history
- unique identifying number
- medical/health/diagnostic information
- cultural background, relationship details and family circumstances
- details of office bearers in funded organisations (i.e. names)
- disability funding and service provision
- complaints and investigations
- personal information recorded by way of camera surveillance systems (CCTV)
- occupation and employment history
- criminal history
- recruitment information.

Sensitive personal information

Personal information includes sensitive information and health information. The types of sensitive personal information which the department holds include personal information about any of the following:

- race or ethnic origin
- political opinions
- membership of a political association
- religious beliefs or associations
- philosophical beliefs
- membership of a professional or trade association
- membership of a trade union
- sexual preferences or practices
- criminal records.

Health information

Sensitive health information about a person which may be held by the department includes the following types of personal information:

- Details about a person's health at any time (e.g. that a person is 'off work sick today').
- A disability of a person at any time (e.g. short term disability following a stroke).
- A person's express wishes about future health services to be provided to them (e.g. a 'do not resuscitate' request).
- A health service that has been, is being, or will be provided to a person (e.g. patient treatment plan).
- Personal information collected about a person for the purpose of, or during the course of providing a health service (e.g. diagnostic tests).
- Personal information collected in connection with the donation, or intended donation, by the person of their body parts, organs or body substances (e.g. blood or urine samples).