



Office of the Information Commissioner  
Queensland



**Promoting Open Government**

Valuing and respecting information rights and responsibilities

# Office of the Information Commissioner

[www.oic.qld.gov.au](http://www.oic.qld.gov.au)



# Personal Information (PI)

- Information or opinion about an individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion
  - ‘apparent’ means the individual can be identified solely from the information
  - ‘reasonably ascertained’ allows reference to be had to other information in determining if the individual can be identified
- It need not be true and it need not be in material form



# Government officer's personal information

- A reasonable government officer
- Is likely to have been aware
- That their routine personal work information
- Would be made available to the public
- A guideline is available on this topic



# Collection

- Only collect personal information you need for a lawful purpose related to the council's functions
- Don't use illegal or unfair means to collect it
- Don't intrude unreasonably on an individual's private life
- Give a collection notice – tell why you're collecting it, any legal authority for collecting it, anyone you'll be disclosing it to, and anyone they'll be disclosing it to
- Make sure collected personal information is accurate



# Storage and security

- Personal information must be protected against loss, unauthorised access, use, disclosure or any other misuse
- This includes the security safeguards appropriate for the type and sensitivity of the information



# Openness

- You must tell people what personal information is held, what it's used for, and how it can be accessed
- A Privacy Plan is one simple way of complying
- Examples:
  - <http://www.derm.qld.gov.au/about/pdf/privacyplan.pdf>
  - <http://tinyurl.com/OICprivacyplan>



# Accuracy and relevance

- You must take reasonable steps to:
  - ensure personal information is accurate, relevant, complete, up to date and not misleading
  - be sure personal information is accurate before it is used
- Only use relevant personal information



# Use and disclosure

- **Use** – general rule is only use PI for the purpose for which it was collected
- **Disclosure** - general rule is don't disclose PI to anyone but the individual it is about
- Use and disclosure contain similar exceptions to these general rules
- *Use* and *Disclosure* are defined in the IP Act



# Use

- Use includes:
  - manipulate, search, or otherwise deal with PI
  - take PI into account when making a decision
  - transfer PI from one part of the agency to another part with different functions
- Not an exhaustive list



# Disclosure

An agency discloses personal information if:

It gives PI to an entity, **or** places the entity in a position to find it out

**and**

the entity didn't already know the PI, **or** wasn't in a position to find it out

**and**

the agency will not have any control over what the entity does with the PI



## Use & disclosure – exceptions to the general rules

- Agreement/consent
- Necessary to prevent a serious threat to life, health, safety or welfare of an individual, or to public health, safety or welfare
- Required or authorised by law



## Exceptions to the general rules, cont.

- Necessary for a law enforcement agency to do one of the following:
  - prevention, detection, investigation, prosecution of criminal offences or those imposing penalties or sanctions
  - enforcement of ‘proceeds of crime’ laws
  - protection of the public revenue
  - prevention, detection, investigation or remedying of seriously improper conduct
  - preparation for, or conduct of, proceedings before a court or tribunal or implementation of a court or tribunal’s orders



## Exceptions to the general rules, cont.

- Necessary for research, or compilation of statistics, in the public interest as long as:
  - the use/disclosure will not involve publishing any identifying material
  - it is not practicable to obtain the individual's agreement
  - For disclosure only: the person to whom it is being disclosed will not disclose it to anyone else



## Exceptions to the general rules, cont.

- Use only – the other use is directly related to the use for which it was collected
- Disclosure only – the individual was reasonably likely to have been aware, or to have been made aware, that the disclosure would occur



# Transfer out of Australia

- s. 33 sets out the circumstances in which an agency is permitted to transfer personal information out of Australia
  - includes: the individual agrees, the transfer is authorised by law or is necessary to prevent a serious threat to life, health or safety
- These rules are additional to the use and disclosure rules



# Contractors

- An agency entering into a service arrangement must take reasonable steps to ensure a contractor is required to comply with the privacy principles if:
  - the contractor will deal with personal information in any way for the agency, or
  - the services will involve transfer of personal information to the agency or the provision of services to a third party on the agency's behalf



# Law enforcement

- There are special rules for law enforcement agencies—in certain circumstances, law enforcement agencies do not have to comply with the IPPs
- A law enforcement agency includes any agency to the extent it has responsibility for the performance of functions and activities directed to the:
  - prevention, detection, investigation, prosecution or punishment
  - of offences and other breaches of the law
  - for which there are penalties or sanctions.



# Support

- Guidelines and Information Sheets available on the OIC website
- Enquiry service:
  - 3234 7373
  - 8:30am-4:30 pm
  - [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au)
- Introductory guideline for local government