



## IPOLA GUIDELINE

### Applying the legislation

GUIDELINE *Information Privacy Act 2009*

## Basic Guide to the Queensland Privacy Principles

**This guide does not reflect the current law.**

**It highlights important changes to the *Information Privacy Act 2009*.**

**This guide does not constitute legal advice and is general in nature only. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.**

The Queensland Privacy Principles (**QPPs**) in the *Information Privacy Act 2009* (Qld) (**IP Act**) set the rules for how agencies<sup>1</sup> deal with personal information.

This guideline provides a quick reference to the QPPs. For detailed information, please refer to the relevant QPP guideline. This guideline is based on and includes material from the Australian Privacy Principle guidelines developed by the Office of the Australian Information Commissioner.

#### Numbering of the QPPs

The QPPs are based on the Australian Privacy Principles (APPs) in the *Privacy Act 1988* (Cth).

The QPPs follow the APP numbering, but not all APPs were implemented in the IP Act. As a result, the IP Act simply notes that some QPPs, e.g., QPPs 7 and 8 are not used.

Note: requirements similar to APP 8 are contained in s.33 of the IP Act.

<sup>1</sup> References to an agency in this guideline include a Minister, bound contracted service provider, or other entity required to comply with the QPPs.



**QPP 1 — Open and transparent management of personal information**

Requires agencies to manage personal information in an open and transparent way.

Requires a clear, up-to-date and accessible QPP privacy policy, and practices and procedures to ensure QPP compliance.

**QPP 2 — Anonymity and pseudonymity**

Requires agencies to allow individuals the option of not identifying themselves (i.e. to deal with the agency anonymously or pseudonymously) unless it is:

- required or authorised under law, or
- impracticable.

**QPP 3 — Collection of solicited personal information**

Provides that agencies:

- can only collect personal information that is reasonably necessary for, or directly related to, one of their functions or activities
- must collect it lawfully and fairly, and
- must collect it from the individual unless an exemption applies (including consent, lawful authority/requirement and law enforcement), or it is unreasonable or impracticable to do so.

Higer standards apply to the collection of sensitive information.

Personal information is only *collected* if the agency solicits it, i.e., they ask someone for it or otherwise takes active steps to acquire it. Unsolicited personal information sent to an agency is not collected and must be assessed under QPP 4.

**QPP 4 — Dealing with unsolicited personal information**

Requires agencies to assess *unsolicited* personal information to determine whether they could have collected it under QPP 3 and/or whether it is a public record. If not, agencies may be required to destroy or de-identify unsolicited personal information, subject to public record laws. Otherwise, QPPs 5 to 13 apply.

**QPP 5 — Notification of the collection of personal information**

Requires agencies that collect personal information to take reasonable steps to make sure individuals are aware of the matters listed in QPP 5 including agency contact details, the fact and circumstances of the collection if collected from someone other than the individual and the consequences if the information is not collected.

This applies when personal information is collected from an individual or from a third party.

Agencies do not need to provide a formal QPP 5 notice. The QPP 5 matters can be communicated in other ways, for example, informally or verbally.

**QPP 6 — Use or disclosure of personal information**

Agencies can only use or disclose personal information for the reason it was collected, unless QPP 6 allows it to be used or disclosed for a secondary purpose. These include:

- instances where the individual has consented to the use or disclosure of the information
- QPP 6 specific secondary purposes, including where:
  - the individual would reasonably expect the agency to use or disclose the information for the secondary purpose (subject to limitations)
  - where it is required or authorised by law or reasonably necessary for law enforcement activities
- permitted general situations such as lessening or preventing a serious threat or locating a missing person (set out in schedule 4, part 1 of the IP Act), and permitted health situations (set out in schedule 4, part 2 of the IP Act).

**QPP 10 — Quality of personal information**

Requires agencies to take reasonable steps to ensure the personal information:

- they collect, use, or disclose is accurate, up to date, complete, and
- for use or disclosure, is relevant to the purpose of the use or disclosure.

**QPP 11 — Security of personal information**

Requires agencies to *take reasonable steps to protect* the personal information it holds from

- misuse, interference or loss, and
- unauthorised access, modification or disclosure.

Requires agencies to take reasonable steps to destroy or deidentify personal information that is no longer needed for any purpose and is not a public record or otherwise required to be retained under law or court or tribunal order.

**QPP 12, QPP 13 — Access to/correction of personal information**

Requires agencies to give access to and correct personal information they hold, subject to limitations.

The following QPP's are not used (i.e. the corresponding Australian Privacy Principles (APPs) were not implemented in the IP Act):

- QPP 7 – Direct marketing
- QPP 8 — Cross-border disclosure of personal information, noting that similar requirements to APP 8 are contained in s.33 of the IP Act
- QPP 9 — Adoption, use or disclosure of government related identifiers.



**For additional IPOLA assistance, please contact the IPOLA team by email [IPOLA.Project@oic.qld.gov.au](mailto:IPOLA.Project@oic.qld.gov.au)**

**For information and assistance on current legislation, please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or by email [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au)**

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