

IPOLA GUIDELINE

Applying the legislation – Information Privacy Act 2009

Key Privacy Concepts – generally available publication

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.

Overview

The Key Privacy Concepts guidelines are intended to assist agencies to comply with the Queensland Privacy Principles (QPPs) in the *Information Privacy Act 2009* (Qld) (IP Act), by providing a guide to key words and phrases used in the IP Act and QPPs.

Generally available publication

Schedule 1, section 7(a) of the IP Act provides that the privacy principle requirements do not apply to a generally available publication (**GAP**).

GAP is defined in schedule 5 of the IP Act as a magazine, book, article, newspaper or other publication that is, or will be, generally available to members of the public whether or not it is:

- published in print, electronically or in any other form; or
- available on payment of a fee or charge.

Publish means to issue, or cause to be issued, in print or digital formats, for sale or distribution to the public, as a book, ebook, blog, periodical, images, sheet music, sound recordings, or the like, or to make publicly or generally known.¹

Only the GAP is excluded

Under schedule 1, section 7(a) the GAP is excluded from the privacy principles. If an agency copies personal information from the GAP into

¹ The Macquarie Dictionary online. Section 28(2) of the IP Act also contains a definition of 'publish', however the definition is specific to that section.



another document, the copied personal information must be handled in accordance with the privacy principles.

However, it may not be possible to *disclose* personal information contained in a GAP, because disclosure under the IP Act requires that the person it's being given to is not in a position to find it out on their own.

Additionally, if the individual the personal information is about published the GAP, or provided their personal information for publication in the GAP, section 28 limits the application of the QPPs.

Refer to [Key privacy concepts – use and disclosure](#) and [Information published by the individual](#) for more information.

Generally available to the public

To be a GAP it must be generally available to members of the public. This means it must be available to all equally, without having to establish standing or a special interest, with no limitations placed on its use or disclosure (apart from general copyright restrictions).

A report, news or magazine article, and the government gazette are GAPs, because anyone can access them for any reason, but a birth certificate is not, because it is only available to people with a sufficient interest. However, if a birth certificate was uploaded online, for example to a public social media account, it would become a GAP.

Documents released under the *Right to Information Act 2009* (Qld) are not GAPs, even though there is no limit on what the applicant can do with them, because giving them to the applicant is not publication. If the agency uploads the documents to a disclosure log, or the applicant publishes them online, they will become GAPs.

For additional IPOLA assistance, please contact the IPOLA team by email 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

Published August 2024 and Last Updated 19 August 2024