



Applying the legislation

GUIDELINE – *Information Privacy Act 2009*

Privacy and MPs acting on behalf of constituents

The *Information Privacy Act 2009* (Qld) (**IP Act**) requires Queensland Ministers, departments, local government and public authorities (**agencies**)¹ to handle personal information in accordance with the privacy principles. Personal information is defined very broadly and it includes any information or opinion in any form, whether true or not, about a person who is or can be identified.

MPs acting for constituents

Members of Parliament (**MPs**) often receive requests for help in dealing with agencies from their constituents². As part of helping their constituent, the MP will often contact the agency for more information or to assist in resolving an issue.

Can the agency discuss the situation with the MP?

If the agency talks to the MP about the constituent it will (in most cases) be disclosing personal information. Agencies are only allowed to disclose personal information in accordance with Information Privacy Principle 11 (**IPP 11**) or for health agencies, National Privacy Principle 2 (**NPP 2**).

Both IPP 11 and NPP 2 permit agencies to disclose personal information where the individual to whom the information relates has agreed to the disclosure. This agreement may be:

- express (the individual told the agency they could disclose information), or
- implied (it is obvious that the individual agrees to the information being disclosed).

As a general rule, agencies should be cautious about relying on implied agreement because it requires the agency to make a judgement call about what an individual intends. However, while it is reasonable for an agency to rely on implied agreement when an MP contacts an agency in response to a request from the constituent, the agency may also wish to be provided with a copy of the constituent's request.

In some circumstances a document signed by the constituent may expedite requests for information; an example document is provided at [Appendix A](#).

¹ In this Guideline references to an 'agency' also includes Ministers unless otherwise specified.

² For the purpose of this Guideline references to 'constituent' means an individual.



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Agencies and MPs should be aware that an individual's agreement cannot override any law which prohibits the disclosure of information, for example the *Hospital and Health Boards Act 2011* or the *Child Protection Act 1999*.

Identity of the constituent

An agency must be satisfied that the constituent is who they say they are before giving their personal information to the MP. The agency may rely on the MP's knowledge of the constituent or they may take independent steps to verify the identity of the constituent, for example by checking the personal information held in the agency's records against the information provided by the MP.

In cases where the constituent is unknown to the MP the agency will need to undertake a formal verification process before the personal information is disclosed. While there is no obligation on MPs to verify a constituent's identity, electoral office staff may take practical steps to verify that an unknown person is on the electoral roll for that district or carry out some kind of identification check in order to minimise delays in obtaining personal information from agencies.

It is the responsibility of the agency, **not** the MP or their electoral staff, to verify the identity of the constituent, but a document such as that in [Appendix A](#) may expedite requests for information.

Limitation of the agreement

The constituent's agreement for the agency to disclose information extends only to the issue about which they contacted their MP; personal information given to the MP must be relevant to the constituent's particular issue.

If the constituent contacted the MP in writing, providing a copy to the agency will help the agency identify the scope of the implied agreement. If the constituent's contact with the MP was verbal, the scope of the implied agreement will be as set out in the MP's contact with the agency.

Personal information of third parties

An agency must not disclose the personal information of third parties when it provides information to the MP. The authority to disclose extends only to the personal information of the constituent who has contacted the MP. For example, if a sister contacts her MP complaining that her brother has been refused a driver's licence, the agency cannot give the MP information about the brother unless the brother agrees.

For additional information and assistance please refer to the OIC's privacy guidelines, or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.



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This guide is introductory only, and deals with issues in a general way. It is not legal advice. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

If you have any comments or suggestions on the content of this document, please submit them to feedback@oic.qld.gov.au

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Changes to legislation after the update date are not included in this document



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Appendix A

AGREEMENT TO DISCLOSE PERSONAL INFORMATION

I, [name of constituent] agree to the [name of agency] disclosing my personal information to the Honourable [name of MP], Member for [name of electorate] for the purposes of responding to [name of MP]'s inquiry on my behalf concerning [subject matter of inquiry].

.....
Signature

.....
Date

.....
Electoral Office use only

The person above:

- is known to the staff of the electoral office
- has verified their identity through a government-issued identity card (eg drivers license, social security card); or
- has verified their identity through alternate means
- has not verified their identity

.....
Signature of MP or electoral officer

.....
Date