



Office of the Information Commissioner
Queensland

Disclosure of Personal Information

Follow up of 2010 review of TransLink's disclosure of go card information to the Queensland Police Service

Report No. 1 of 2011/12 to the Queensland Legislative Assembly



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Ms Barbara Stone MP
Chair
Legal Affairs, Police, Corrective Services and Emergency Services Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Ms Stone

I am pleased to present *Follow up of 2010 review of TransLink's disclosure of go card information to the Queensland Police Service*. This report is prepared under section 135 of the *Information Privacy Act 2009*.

The report follows up activities taken by TransLink and the Queensland Police Service to implement the review recommendations.

In accordance with subsection 193(5) of the *Information Privacy Act 2009* (Qld), I request that you arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely



Julie Kinross
Information Commissioner

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1 Executive Summary

On 30 July 2010 the Privacy Commissioner announced a review into the TransLink Transit Authority's (TransLink) handling of personal information contained in *go* cards and its disclosure of this personal information to the Queensland Police Service (QPS).

In November 2010, the findings were presented to the Speaker of the Legislative Assembly in *Disclosure of Personal Information: Review of TransLink's disclosure of go card information to the Queensland Police Service*, including recommendations to ensure safeguards for the handling of personal information in TransLink *go* cards.

In May 2011, OIC wrote to TransLink and QPS to assess the actions taken to implement the recommendations made in the review. TransLink and QPS have reported that they have met or exceeded the requirements of all recommendations raised in the original review. The key activities that were reported included:

- TransLink, in consultation with QPS, have developed a 'Queensland Police Service Information Request' form and instructions for QPS officers making requests for information. This form is available on the QPS forms database.
- All QPS requests to TransLink are now authorised by a Commissioned Officer within QPS.
- Requests are centrally managed in TransLink by the RTI and Privacy Unit. Requests are considered under formal delegations and arrangements, using standard documentation and resulting in notations on TransLink's records database when personal *go* card information is disclosed.
- TransLink's draft policies and procedures mentioned in the review have been updated and approved by senior management and contribute to consistent information handling practices.
- TransLink has conducted reviews of the information sought in *go* card applications, and its data security systems, and taken steps to safeguard data security and to ensure that any information collected is necessary.
- Greater privacy awareness at TransLink has been achieved through privacy awareness sessions, the inclusion of privacy awareness in the corporate induction program for commencing staff and privacy notices in the internal bulletin.

2 Introduction

2.1 Background

In July 2010, the Privacy Commissioner announced a review into the handling and disclosure of personal information by TransLink Transit Authority (TransLink) to the Queensland Police Service (QPS). The objective of the original review was to ensure that there were proper safeguards for the handling of personal information contained in *go cards*. In particular, the review sought to establish that:

- TransLink was satisfied on reasonable grounds that disclosure of the *go card* information to the QPS was necessary on each occasion and was necessary for a law enforcement function.
- QPS was satisfied on reasonable grounds that the *go card* information was necessary on each occasion for a purpose as per the *Information Privacy Act 2009 (Qld)* (IP Act).

The review commenced in August 2010, and a report - *Disclosure of Personal Information: Review of TransLink's disclosure of go card information to the Queensland Police Service* was presented to the Queensland Legislative Assembly in November 2010. The report made seven recommendations and stated that OIC would assess the implementation of the recommendations six months after the date of the report.

In May 2011, the OIC asked TransLink and QPS to advise what actions had been taken to implement the recommendations of the review. This is a report on the advice received from TransLink and QPS as to their activities.

2.2 Information Privacy Principle 11 – Limits on disclosure

No provision in the IP Act compels TransLink to provide personal information to law enforcement agencies. If an agency such as TransLink decides to exercise its discretion to provide personal information, it must ensure it complies with the IP Act in doing so.

Section 27 of the IP Act requires agencies¹ to comply with the 11 Information Privacy Principles (IPPs) set out in Schedule 3 when handling personal information. IPP 11 provides that an agency must not disclose personal information to an entity other than the individual concerned, unless one of six exemptions applies. Two exemptions were particularly relevant to the review:

- IPP 11(1)(c) which allows personal information to be disclosed to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; and
- IPP 11(1)(e)(i) which allows personal information to be disclosed to a law enforcement agency if the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions, by or for a law enforcement agency.

¹ Note that this applies to all agencies except Queensland Health, which is subject to the National Privacy Principles in Schedule 4.

3 Follow-up of Recommendations

Background

In 2010, OIC reviewed TransLink's handling of personal *go* card information, particularly TransLink's disclosure of this information to QPS.

The review examined 55 Queensland Police Service investigations seeking *go* card information, where requests were received prior to the commencement of the review, and a further 16 requests for information received after the review commenced. These requests concerned 142 *go* cards.

In 2010, the OIC found that requests for *go* card information made prior to the commencement of the review were not handled in accordance with the requirements of the IP Act on a number of occasions. Requests made after the commencement of the review, which were made using new draft procedures and pro-forma request form, were generally handled in accordance with the IP Act.

Seven recommendations were made by OIC to improve the safeguarding of personal *go* card information. These recommendations are the subject of this follow-up report.

QPS' and TransLink's responses to each recommendation are reported below, with OIC's comments and observations on each response.

3.1 TransLink to be satisfied of need to disclose

Recommendation One

TransLink only disclose personal *go* card information to the Queensland Police Service (QPS) under IPP 11(1)(c) or (e) if it has:

- a) Sufficient information about QPS' investigation to satisfy itself on reasonable grounds that the disclosure is necessary, or
- b) Been satisfied by QPS in another way, for example, through discussion between a QPS officer and a specified TransLink officer, who then notes on the TransLink record that they are satisfied that the information is necessary for a law enforcement activity and can be disclosed.

TransLink's Response

In response to Recommendation One, TransLink have implemented a process whereby all requests from the QPS seeking access to personal information of go card users are processed only on receipt of the approved TransLink 'Queensland Police Service Information Request' form (see Appendix 1). This form was developed in consultation with the QPS and has been made available in the QPS forms database along with a set of instructions for QPS officers in completing the form (see Appendix 2). The request form must be approved by a Commissioned Officer.

TransLink now manages QPS requests for information through the agency's Right to Information and Privacy Unit (RTI and Privacy Unit). The release of the information is recorded on an email template that outlines the reason for release and obligations of QPS on how the released information is to be handled.

In addressing point (b) of Recommendation One above, TransLink's RTI and Privacy Unit directly liaises with the QPS officer (applicant) to ensure release is necessary, and only releases information that meets the requirements of IPP 11(1)(c) or (e). The RTI and Privacy Unit officers have delegated authority, and act in accordance with a process negotiated with QPS to manage requests for highly protected information. The details of the application, including correspondence with the applicant and application decision, are recorded into TransLink's recordkeeping system (TRIM).

OIC Comment

OIC has viewed the request form, its accompanying instructions and the email template provided by TransLink for recording information released. OIC recommended this form be used.

The OIC report did not specifically recommend that TransLink handle all requests through the RTI and Privacy Unit, so that TransLink could identify the appropriate internal process in which to achieve required outcomes. However, this option was the subject of a number of discussions during the review process. OIC considers this to be a very positive step towards successful realisation of the OIC report's recommendations.

This response addresses and exceeds the OIC recommendation.

3.2 QPS to ensure requests are specific

Recommendation Two

QPS limit its requests to the specific personal go card information necessary for QPS' investigation. Where necessary, QPS and TransLink should work together to clarify the scope of the request to limit the disclosure to the specific information necessary.

TransLink's and QPS' Responses

In addition to the comments provided in response to Recommendation One, TransLink advised that they have established a proactive working relationship with QPS State Operations which has assisted in ensuring QPS officers are aware of the requirements for requesting TransLink information.

QPS stated that the implementation of the agreed pro forma request form, Commissioned Officer overview process and the underpinning policy provide clear instructions to ensure requests are only for the specific personal information required. The improved compliance with the IP Act from TransLink's perspective further ensures information released is only in respect to the actual needs of QPS investigations.

OIC Comment

A proactive working relationship between QPS and TransLink is consistent with the OIC recommendation but does raise the possible risk that a close working relationship might be perceived as not having sufficient independence. The other activities adopted as a result of the review should control this risk, for example, proper delegations, the requirement for co-signing applications within QPS and more consistent record keeping by TransLink.

OIC notes the report from TransLink and QPS that this recommendation has been addressed.

3.3 TransLink to note any disclosure

Recommendation Three

- a) TransLink ensure that when *go* card information is disclosed to a law enforcement agency a note to that effect is added to the *go* card database (the Nextfare system) as soon as practicable.
- b) TransLink add such a note to any *go* card information which has previously been disclosed within three months form the date of this report.

TransLink's Response

TransLink advised that a process has been implemented where a notation is added to the Nextfare system any time the details of a *go* card are accessed for release. All the *go* cards identified in the review had the same notations added into Nextfare system by 1 December 2010. The notations include:

- Who had requested the information
- What information has been released
- The relevant TRIM reference of the request

OIC Comment

Under IPP 11(2) if an agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure. At the time of the review, TransLink was not making a notation against the document where personal information was being disclosed to a law enforcement agency under IPP 11(1)(e). OIC notes TransLink's report that this is now occurring.

3.4 TransLink and QPS to use standard form

Recommendation Four

TransLink and QPS use the Queensland Police Service Information Request form when QPS is requesting information from TransLink.

QPS' and TransLink's Response

QPS advised they have included the Form QP882 'TransLink – QPS Information Request' in the Operational Procedures Manual and QPS Forms Select package. The approved form has been amended twice to accommodate the change to TransLink's phone number and facsimile number and has been operating successfully since the Review.

As noted previously in this report, the request form requires the QPS to provide information to TransLink to meet the requirement under IPP 11 that the information requested is necessary for a law enforcement activity.

OIC Comment

OIC notes the report from TransLink and QPS that this recommendation has been addressed.

3.5 QPS to authorise all requests

Recommendation Five

Requests for personal go card information should be co-signed by a more senior QPS officer to the one making the request.

QPS' Response

QPS stated that the pro forma form requires a Commissioned Officer to sign the request. This elevates the process of requesting information to a higher level of scrutiny and management than originally recommended and achieves parity with similar forms used by the QPS when seeking information from external agencies. The feedback from TransLink indicates compliance by QPS with this process.

OIC Comment

Prior to OIC's review, most requests made to TransLink by the QPS were made and signed-off by the Constable or Sergeant in charge of the police investigation. A counter signature to authorise the request was not required prior to the review.

During the OIC review, a counter-signature from a senior officer became a requirement. OIC recommended that a more senior officer co-sign all requests. QPS' requirement that requests are authorised by a Commissioned Officer goes beyond this recommendation. OIC considers this adds to the effectiveness of the control procedure.

3.6 TransLink to update Privacy Statement

Recommendation Six

TransLink should update its Privacy Statement to state that information may be disclosed where it is “authorised or required by law”.

TransLink’s Response

TransLink have updated the Privacy Statement on the TransLink website to advise customers that information may be disclosed where it is “authorised or required by law”.

TransLink has reviewed the supporting documentation for the *go* card starter pack to ensure the revised statement is included under the privacy section.

OIC Comment

A review of TransLink’s website by the OIC has confirmed that the agency’s Privacy Statement has been updated to include the disclosure of information where it is authorised or required by law.²

In response to TransLink’s report that the *go* card starter pack had been updated, a review of TransLink’s *go* card starter pack by OIC has confirmed that the agency’s Privacy Statement has been updated to include the disclosure of information where it is authorised or required by law.

OIC considers that this recommendation has been addressed.

² The website was reviewed on 7 June 2011: <http://translink.com.au/site-information/legal/privacy>

3.7 TransLink and QPS to ensure they have clear policies, systems and procedures

Recommendation Seven

TransLink and QPS should ensure clear policies, systems and procedures are implemented to raise awareness of, and require compliance with, personal information handling practices to meet requirements of the IP Act. This includes the following:

- a) TransLink's draft policies and procedures document Managing Information Privacy is formalised;
- b) A clear and consistent process for managing TransLink's privacy matters is put in place;
- c) All personal information collected for go cards is necessary, relevant and consistent across the registration methods; and
- d) TransLink establish a high level of data security in systems for accessing Nextfare, processing hard copy registration forms, and managing complaints.

TransLink's Response

The TransLink Managing Information Privacy procedure document was adopted for use in August 2010. The TransLink RTI and Privacy Unit carried out an initial process improvement review of procedures in October 2010. Changes to the policies and procedure document were made and approved by the CEO in November 2010. Further amendments were made to the policies and procedure document to include the management of CCTV requests and QPS Evidence Act requests. The revised version was approved by the CEO in March 2011.

The formal establishment of the RTI and Privacy Unit in September 2010 has enabled improved visibility of privacy and related obligations within the organisation. Raising the awareness of privacy within TransLink is now recognised as a key deliverable of the RTI and Privacy Unit under Achieving Business Excellence Objective of the TransLink Strategy. Privacy Awareness sessions have been provided by the RTI and Privacy Unit at group and team levels with the organisation. This awareness session is now part of the TransLink Corporate Induction program and delivered by the RTI and Privacy Unit.

All TransLink activities where customers' details may be collected are now reviewed by the RTI and Privacy Unit prior to approval and print. This process ensures the relevant collection notices and practices are in place and customers' information is being handled in line with privacy principles.

As a proactive measure in raising awareness of privacy in TransLink, the RTI and Privacy Unit place notices in the internal TransLink bulletin.

The TransLink RTI and Privacy Unit carried out a full review of all of the registration capture points for *go* card.

The review found the following:

- The current online and paper application capture points provided the minimum details to ensure the individual identification of each customer.
- The capture points provided adequate details to enable the necessary controls and security required to protect customers' funds and allow the process of refunds and adjustments.
- The current capture points were required to ensure there were adequate card holder details for occasions when TransLink is required to contact a registered card holder.

Overall the current process and capture points for registration are consistent and are required for TransLink and the customer to securely manage a registered *go* card.

TransLink have implemented an access and user register for the Nextfare system. This is managed by the Retail and Sales Unit of TransLink. This register provides current information on the following:

- Name and position of all TransLink and Service Delivery Staff who have access to the system.
- Levels of access within the system.

The Retail and Sales Unit regularly reviews register details to ensure information remains up-to-date. System users are advised to provide the Retail and Sales Unit with details of any changes in their system access status. Current users have been reminded of their obligations in relation to use of the system, including password security. Customers are required to send completed paper registration forms directly to CUBIC³ for processing. A ticketing advice has been sent by TransLink to all ticket

³ Cubic Transportation Systems is an international company which designed and delivered the *go* card system, and now provides support services, including managing the *go* card information database, Nextfare.

agents reminding them of the process in relation to completed *go* card registration forms and the requirement for agencies not to retain paperwork in relation to customer *go* card registration applications.

QPS' response

QPS advised that Commissioner's Circular 1/2011 was released state-wide on 4 February 2011, clearly outlining the policy, order and procedure required under Section 2.17.6 of the Service's Operational Procedures Manual when requesting *go* card information from TransLink. This instruction is available for all police on the Service's intranet and state-wide emails were also circulated as a general notification of the requirements the Service has when requesting information from TransLink

OIC Comment

At the time of the original review, TransLink did not have approved policies and procedures for handling QPS requests for *go* card information. TransLink advised that they were operating from a draft set of procedures. During the original review, OIC reviewed the draft policies and procedures and found them to be sound and if formally adopted would promote the agency's compliance with the IP Act. OIC notes TransLink's report that these have now been formally adopted. The OIC report highlighted specific changes that would improve the document. TransLink provided OIC with a copy of the approved policies and procedures, and OIC notes that the suggested changes were incorporated into this document.

TransLink reported the development of training and the use of notices in TransLink's bulletin to raise information privacy awareness within TransLink. OIC's Privacy Team have reviewed the 'Privacy Awareness' PowerPoint presentation and the bulletin notices provided by TransLink, and have determined that they are well constructed and represent a sound approach.

Under IPP 3, agencies are required to collect only personal information that is relevant for the purpose for which it is collected. The original review undertaken by the OIC noted that it was not immediately apparent that all of the information collected by TransLink's Nextfare database was necessary or relevant. In response to the OIC's recommendation, TransLink reported that the RTI and Privacy Unit carried out a full review of all registration capture points for *go* card. The RTI and Privacy unit concluded that the capture points for *go* card registration are required for TransLink to manage a registered *go* card. OIC notes TransLink's report of this review.

Data security under IPP 4 requires agencies to ensure that personal information is protected against loss, unauthorised access, use, modification or disclosure and misuse. Concerns were raised by the OIC prompting a recommendation that TransLink establish a high level of data security in its systems. OIC considers the access and user register for the Nextfare system is an excellent control. OIC also notes the reminder sent to staff about their obligations with respect to system security, and the new requirement that hard copy forms are sent directly to CUBIC for processing. OIC considers both of these controls are important steps towards improving data security.

4 Conclusion

In response to OIC's request for information as to the implementation of recommendations, TransLink and QPS were responsive and specific about a series of active steps they had taken to implement the recommendations.

OIC notes the steps taken and, on the basis of these reports, considers the recommendations have been addressed.

This is a positive outcome for both agencies and for community confidence about the handling of personal go card information.

Appendix 1 – Request form

Queensland Police Service Information Request

Requesting officer:

		QPRIME Reference:			
Name		Rank		Registered No.	
Region		District		Station	
Email		Phone		Fax	
"I certify that this information is reasonably necessary pursuant to Principle 11 (1) of the <i>Information Privacy Act 2009</i> "					
Requesting Officer Signature			Date		

Commissioned Officer Authorisation:

Name		Rank		Registered No.	
Region		District		Station	
"I am satisfied this information is reasonably necessary pursuant to Principle 11 (1) of the <i>Information Privacy Act 2009</i> ".					
Commissioned Officer Signature			Date		

Information and Reason for request including what is being investigated.					
<ul style="list-style-type: none"> • why the information is necessary for the investigation; and • any law requiring or authorising TransLink to provide the information. 					
<p>The TransLink Transit Authority must not disclose personal information unless an exception in paragraphs (a) to (f) of the IPP 11 (1) of the <i>Information Privacy Act 2009 (Qld)</i> applies. TransLink will assess on a case by case basis whether an exception applies. TransLink may disclose information, if it is satisfied on reasonable grounds, that the disclosure of information is necessary for 1 or more of the paragraphs in IPP 11 (1) (e) (i) to (v).</p> <p>Internal use only</p>					
Date request received by TransLink:	/	/	Receiving officer:		
Send to: RTI & Privacy Unit - GPO Box 50, Brisbane, Qld 4001 Phone: 3167 4324 Fax: 3167 4001					
Email: privacy@translink.com.au					

Appendix 2 – Instructions for completing form

Instructions for QPS members

1. The information in the request form must be sufficient to satisfy the provisions of IPP and enable Translink to make an informed decision to release their information however the request should not compromise the operational integrity of the investigation.
 - a. For example, it is appropriate to say *'to identify witnesses for investigations into a sexual assault which occurred on a bus on the afternoon of 5 December 2009'* but inappropriate to mention intimate details of a child victim.
 - b. For example, *'break and enter investigation'* is insufficient however *'conducting enquiries to ascertain if offenders have used a go card stolen from a break and enter on 5 December 2009 at Chermside'* is appropriate.
2. For missing persons requests, *'concerns over a missing person'* is insufficient however *'concerns for the safety of a missing 10 years old child'* (refer to known vulnerabilities in Chapter 12 of the Operational Procedures Manual and the missing person risk assessment process).
3. For matters rated as 'Highly Protected', contact is to be made with the Detective Chief Superintendent, State Crime Operations Command (3364-6168) and an approach will be made to the Manager, Translink to engage in negotiations to ensure the security of the information is protected but that sufficient security protocols and processes exists for Translink to make a decision to release personal information.
4. Your request must be signed by a Commissioned Officer.
5. Fax or email page one **ONLY** of this document.
6. The provisions of *IPP 11 – Limits on disclosure* is attached for information and is the legislation Translink assess QPS requests on. Normally, the QPS rely on provisions 11(c) or 11 (e).

11 IPP 11—Limits on disclosure

(1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the **relevant entity**), other than the individual the subject of the personal information, unless—

(a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or

(b) the individual has expressly or impliedly agreed to the disclosure; or

(c) the agency is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or

(d) the disclosure is authorised or required under a law; or

(e) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency—

(i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;

(ii) the enforcement of laws relating to the confiscation of the proceeds of crime;

(iii) the protection of the public revenue;

(iv) the prevention, detection, investigation or remedying of seriously improper conduct;

(v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or

(f) all of the following apply—

the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;

the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;

it is not practicable to obtain the express or implied agreement of the individual before the disclosure;

(iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

(2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.