



Interpreting the legislation – *Information Privacy Act 2009*

Key Privacy Concepts – Use

1.0 Overview

The Key Privacy Concepts guidelines¹ explain important words and phrases used in the [Information Privacy Act 2009 \(Qld\) \(IP Act\)](#). They are intended to assist in the interpretation and application of the privacy principles in the IP Act.

2.0 Use as defined in the IP Act

Section 23(3) of the IP Act defines 'use'.

- (3) An entity **uses** personal information if it—
 - (a) manipulates, searches or otherwise deals with the personal information; or
 - (b) takes the information into account in the making of a decision; or
 - (c) transfers the information from a part of the entity having particular functions to a part of the entity having different functions.
- (4) Subsection (3) does not limit what actions may be **use** of the personal information.
- (5) However, **use** of the personal information does not include the action of disclosing the personal information to another entity.

Section 23(4) provides that section 23(3) is a non-exhaustive list of what can constitute use, however section 23(5) explicitly limits use to actions that are not disclosure as defined in section 23(2).

There are very few ways in which an entity can manipulate, apply or access personal information that will not constitute a use. Regular back-ups of electronic personal information through standard processes, or restoration of corrupted or lost information from those back-ups, would not generally constitute a use, however, accessing the personal information in those back-ups would.

In some circumstances, provision of personal information to another entity will not constitute a disclosure, but a use. This will be where the

¹ The key concepts are based on and draw from the Key Concepts in the Victorian Privacy Commissioner's *Guidelines to the Information Privacy Principles, volume 2*.



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transferring entity retains control over the personal information and what the receiving entity may do with it.

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

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