

INFORMATION SHEET

INFORMATION PRIVACY

FUNCTION



Office of the Information Commissioner
Queensland

November 2020

The Office of the Information Commissioner (OIC) builds trust in government agencies in Queensland through greater transparency. OIC has a statutory role to assist the achievement of more open, accountable and transparent government through independently upholding and promoting information access and privacy rights.

OIC recognises the important obligation that Queensland public sector agencies have in ensuring the privacy of the personal information held by the government is respected.

The *Information Privacy Act 2009* (Qld) (IP Act) creates a right for individuals to access and amend their own personal information, and provides rules for how Queensland public sector agencies must handle personal information. OIC has a responsibility to assist agencies to comply with these rules and acts as an advocate, advisor and trainer on privacy.

Initially established under the repealed *Freedom of Information Act 1992* (Qld), OIC continues under the *Right to Information Act 2009* (Qld) (RTI Act) and the IP Act.

Privacy Commissioner

The Privacy Commissioner's role is that of a deputy to the Information Commissioner.

The Privacy Commissioner performs the privacy functions of the Information Commissioner under the IP Act, including:

- advocating and training on sound information management and privacy practices, and privacy by design
- dealing with privacy complaints
- conducting reviews of systemic privacy issues within the public sector
- issuing compliance notices to agencies found in breach of the privacy principles; and
- giving approvals to agencies for modification or waiver of their obligations to comply with the privacy principles in circumstances where there is an overriding public interest.

The Privacy Commissioner is appointed by the Governor-in-Council.

Privacy complaint mediation service

Under the IP Act, a person may make a privacy complaint to the OIC, if they believe their privacy has been breached by a Queensland government agency. The individual must first take their complaint to the agency concerned and allow an adequate amount of time for it to resolve the complaint. If that approach is not successful, the individual can lodge their complaint with OIC.

The Information Commissioner can decide to decline to deal with the complaint or refer the complaint to a more appropriate agency. Privacy is also protected under other legislation such as the *Human Rights Act 2019* and *Criminal Code Act 1899*. Once a privacy complaint is accepted the Information Commissioner must take all reasonable steps to effect a resolution to the complaint by providing a mediation service.

If the complaint remains unresolved, the individual has an option to request their complaint be referred to the Queensland Civil and Administrative Tribunal for its determination.

Jurisdiction

The IP Act does not cover actions by individual citizens, private sector organisations or the community sector, unless they are bound service providers of state services. If the organisation has an annual turnover of more than \$3m, the Commonwealth's *Privacy Act 1988* may cover its activities. This includes banking, insurance and telecommunication companies.

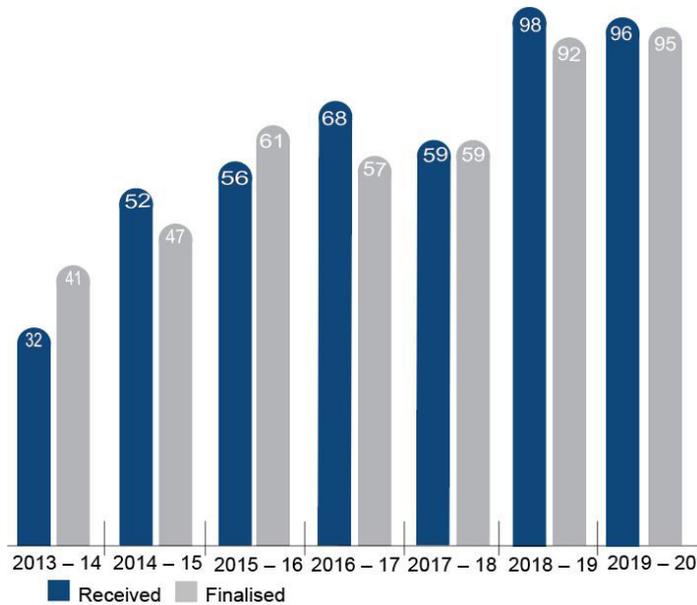
However, regardless of the size of the organisation, the *Privacy Act 1998* (Cth) does not cover private sector organisations which have been contracted to the Queensland State Government to provide government services.

There is the capacity in the IP Act and an obligation to attempt to bind these organisations to the privacy principles in the IP Act.

Highlights of 2019–20

- We received 96 privacy complaints and finalised 95.
- 99% of privacy complaints were finalised in 2019–20.
- 100% of agencies were satisfied with the privacy compliant mediation service provided.
- 25 consultations and submissions and 412 advices and meetings were provided.
- We participated in 148 meetings, regional visits and information sessions.

Number of privacy complaints received and finalised



About the Privacy Commissioner

Phil Green

Phil Green was appointed as Privacy Commissioner in December 2015.

Phil has worked in many different Queensland Government roles and in private practice. Prior to his appointment as Privacy Commissioner, he was Executive Director, Small Business - Department of Tourism, Major Events, Small Business and the Commonwealth Games. He was

responsible for leading Innovation Policy and Innovation Partnerships and Services and Office of Small Business Teams in the delivery of high level policy development, program management, service delivery and advice.

Phil has also held high level policy roles with the Department of Transport and Department of Premier and Cabinet. He has worked as in-house solicitor and investigations manager for the Residential Tenancies Authority and in private practice with Allens Linklaters.

Phil holds degrees in law and arts (with economic minor) and was admitted as a solicitor of the Supreme Court of Queensland and High Court of Australia in February 1992. Further to this he completed a Masters degree in law, majoring in technology law. He has also volunteered as a solicitor at Caxton Legal Centre.

As the Privacy Commissioner Phil actively promotes and champions privacy rights and responsibilities in Queensland. He advises on and advocates for privacy by design and good information and privacy practices. Phil leads the staff in OIC responsible for mediating privacy complaints that have not been resolved with the Queensland Government agency involved; conducting reviews and audits of privacy compliance; giving compliance notices for serious, flagrant or recurring breaches of the privacy principles; and waiving or modifying an agency's privacy obligations for a particular purpose or project.

Phil is appointed as Privacy Commissioner to 10 December 2021.

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Please note: The Office of the Information Commissioner (OIC) cannot comment on an external review application being considered by OIC or where the parties to the review may still seek review of the OIC decision. Reasons for external review decisions are published on the OIC website. OIC cannot disclose information relating to a review, including information claimed to be exempt or otherwise able to be withheld from disclosure. Similarly, OIC will not discuss specific privacy complaints with people who are not a party to the complaint. Information about how the RTI Act and the IP Act apply to various types of entities and documents can be found in Information and Resources on this website.