

27 March 2025

Mr Nigel Hutton
Chair
Education, Arts and Communities Committee
Queensland Parliament

By email: eacc@parliament.qld.gov.au

Dear Chair

Inquiry into the Education (General Provisions) Amendment Bill 2025

The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission to the Education, Arts and Communities Committee's inquiry into the Education (General Provisions) Amendment Bill 2025 (**Bill**).

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Right to Information Act 2009* and the *Information Privacy Act 2009* (**IP Act**) to, respectively, facilitate greater access to government-held information and oversee safeguarding of personal information collected, used and held by Queensland public sector agencies.

Clause 37 of the Bill

This submission is confined to clause 37 of the Bill, which inserts a new section 426A to allow disclosure, or the making of a record for disclosure, of state school students' personal information to entities that provide approved online services. We note clause 38 also inserts transitional provisions, including new section 554 to complement a new section 426A.

OIC welcomes the safeguards provided under section 426(2)(a) that a contract or arrangement entered into with an entity that provides (or is to provide) an approved online service is a 'service arrangement' and the entity is a 'bound contracted service provider' for the contract under the IP Act. OIC also acknowledges the additional safeguards set out under section 246A(2), including that the online service provider is suitable to protect the privacy and online security of the personal information that may be disclosed, recorded, or used by the entity providing the approved online service.

OIC appreciates the Department of Education's (**Department**) need to ensure state school students have access to the latest innovations in teaching and learning practices provided through online educational resources and tools. As well as the need to manage some of the administrative burden created by the existing consent process and the increased risk of information security breaches due to the variability of online services' privacy and security protections.¹

¹ [Human Rights Statement of Compatibility](#), pages 3 to 4.

However, given the Department's reliance on external online service providers, OIC submits it could implement further measures to ensure the personal information of state school students' (and often sensitive information) is appropriately collected, stored, used and disclosed.

OIC recommends that agencies take a 'Privacy by Design' approach to new technologies and projects by conducting a [Privacy Impact Assessment \(PIA\)](#) before implementing policy proposals to enable external service providers to collect, hold, manage and use personal information, particularly where it could pose a significant privacy or data security risk for the community.

It is not clear from the Explanatory Notes, the Human Rights Statement of Compatibility or the Introductory Speech whether the Department undertook a PIA when developing the policy proposal for new section 266A.

OIC recommends the Department undertake a PIA to assist in identifying any privacy risks and formulating appropriate mitigation strategies and publishing the PIA to the greatest extent practicable. A PIA will also assist parents, students and state schools to have confidence in the use of an approved online services, in addition to the requirements set out in new section 426A.

In addition, OIC recommends the Department consider implementing the following safeguards:

- (a) robust operational policies and procedures for the assessment of an online service provider's demonstrated capacity to comply with the privacy principles under the IP Act prior to their engagement
- (b) training for departmental staff authorised to disclose, make a record or use students' personal information under new section 426A
- (c) regular auditing of entities providing an approved online service to:
 - prevent unauthorised access to, or misuse of, students' personal information
 - ensure they are complying with their obligations under the IP Act and any other contractual obligations; and
- (d) clear, accessible and plain English, privacy policies for parents and students to be informed about how a student's personal information will be collected, stored, used and disclosed, and how to opt out of using an approved online service.

Importantly, once the Mandatory Notification of Data Breach scheme commences under the *Information Privacy and Other Legislation Amendment Act 2023*, the Department will need to review the terms of a contract or arrangement under section 426A and consider including requirements for entities providing an approved online service to:

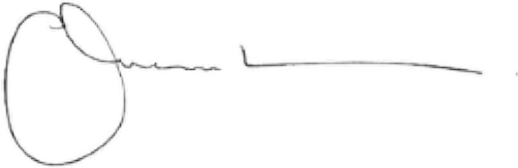
- (a) promptly report data breaches
- (b) contain, and mitigate the harm caused by, data breaches; and
- (c) assist and cooperate with data breach assessments.

Finally, a contract or other arrangement the Department enters into under new section 426A should not affect its ability to meet its obligations under the *Right to Information Act 2009* to provide access to documents if access is sought, for example, by a parent or student.

Thank you for the opportunity to provide a submission on the Bill and we trust the issues raised will assist the Committee in its work.

Should you require further information regarding the above matters, please contact us at administration@oic.qld.gov.au or on 07 3234 7373.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized capital 'J' followed by a series of loops and a long horizontal stroke extending to the right.

Joanne Kummrow
Information Commissioner