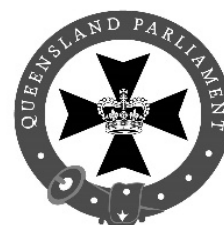


Policy

Privacy Policy

February 2021

Public



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Contact for enquiries and proposed changes

All enquiries regarding this document should be directed in the first instance to:
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Privacy Policy

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Acknowledgement

This document includes material from the following sources:

Office of the Information Commissioner Queensland: Privacy and MPs acting in behalf of constituents

<https://www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/applying-the-privacy-principles/privacy-and-mps-acting-on-behalf-of-constituents>

Queensland Government Department of Premier and Cabinet: Privacy of Personal Information Guide

<https://www.premiers.qld.gov.au/publications/categories/guides/dpc-privacy-plan.aspx>

Information Security

The document has been classified using the Queensland Parliamentary Service Information Security Classification (PSISC) as INTERNAL and will be managed according to the requirements of the PSISC.



Purpose

This policy ensures that the Parliamentary Service complies with its obligations under the *Information Privacy Act 2009*.

Authority

The Speaker is afforded the authority to make and determine policies for the Parliamentary Service under section 6 of the *Parliamentary Service Act 1988*. Section 8 of the *Parliamentary Service Act 1988* then permits delegation of this authority from the Speaker to the Clerk of the Parliament. This policy is therefore made under the authority of the Clerk of the Parliament.

Responsibility

The overall responsibility for privacy in the Parliamentary Service resides with the Clerk of the Parliament. However, the responsibility for day-to-day management has been delegated to the Parliamentary Service Privacy Officer.

The Parliamentary Service Privacy Officer is the first point of contact for members of the public and officers and employees on privacy matters, including:

- breach of privacy complaints
- requests for internal reviews
- requests to amend records, and
- general information and advice on privacy in the Parliamentary Service.

The Privacy Officer is located in the Deputy Clerk's Office and can be contacted on 07 3553 6611.

The Privacy Officer is responsible for reporting privacy matters to the Clerk of the Parliament and for preparing relevant statistical reports for senior management and for inclusion in the Parliamentary Service's annual report.

Policy Statement

The Parliamentary Service is committed to protecting the privacy of personal information by complying with the obligations outlined in the *Information Privacy Act 2009*, including the Information Privacy Principles (IPPs).

Application of policy

The *Information Privacy Act 2009* (the Act) provides a framework for the fair collection and handling of personal information in the public sector in accordance with certain rules (IPPs). The Act also provides a right for individuals to access and amend their personal information held by public sector entities.

The IPPs within the Act only apply to Queensland Government agencies. The Act does not cover actions by individuals, private sector organisations or the community sector.

In accordance with the Act, this policy applies to:

- Parliamentary Service employees
- contractors and consultants to the Parliamentary Service, and



- electorate officers (when acting as Parliamentary Service employees).

This policy does not apply to:

- the Legislative Assembly
- Members of Parliament and their electoral office staff (when acting on behalf of the Member of Parliament)
- statutory and portfolio Parliamentary Committees
- parliamentary proceedings that are kept by the Parliamentary Service.

Members of Parliament and their electorate officers

As set out in the *Information Privacy Act 2009*, this policy does not apply to Members of Parliament or to electorate officers when they are acting on behalf of Members. However, when acting as Parliamentary Service employees, electorate officers are subject to the Act and this policy.

An example of when an electorate officer may be acting as a Parliamentary Service employee is when obtaining, accessing and using the personal information of another electorate officer for the purposes of human resourcing. An example of when an electorate officer may be acting on behalf of a Member of Parliament is when making enquiries with other government agencies on behalf of a constituent.

Members of Parliament should be aware that while they are not subject to the legal obligations in the *Information Privacy Act 2009*, agencies they deal with on behalf of their constituents may be. Therefore, before advocating on behalf of a constituent where there is the potential of disclosure of their personal information, a Member should seek express agreement from the constituent for such disclosure wherever possible. Implied agreement can also satisfy the requirements of the *Information Privacy Act 2009*. Therefore, if a Member is asked to undertake specific advocacy on behalf of a constituent, it may be implied that the Member has agreement from the constituent to disclose their personal information in order to achieve this.

Notwithstanding that the *Information Privacy Act 2009* does not apply to Members, they are encouraged to subscribe to this policy in their electorate offices to ensure privacy best practice.

Further, and in addition to this policy, how Members of Parliament deal with private information may be governed by the Standing Rules and Orders and in accordance with the principle of parliamentary privilege. Parliamentary privilege provides, amongst other things, that the Legislative Assembly has the right to control its own proceedings, and the manner in which it keeps its records.

Personal Information

What is personal information?

The *Information Privacy Act 2009* defines 'personal information' as information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. A person's name, address, date of birth, phone number, medical details and financial details are all examples of personal information.

Personal information may be contained in:

- paper records
- electronic records
- digital recordings
- digital images



- photographs.

Personal information is not limited to sensitive or confidential information, although the degree of sensitivity or confidentiality may influence the way in which the IPPs are applied in particular circumstances. Many of the IPPs require that reasonable actions be taken, having regard to the specific circumstances and the nature of the information. As such, procedures may vary dependant on the sensitivity of the information.

What is not personal information?

Personal information does not include information about a person that is already contained in a publicly available publication, such as magazine, books, newspapers, newsletters, annual reports and the Queensland Government Gazette.

Although personal information about a deceased person is not technically considered to be personal information, Parliamentary Service staff are encouraged to respect sensitivities of family members when using this information.

Personal information collected by the Parliamentary Service

The Parliamentary Service collects personal information about:

- Members of Parliament and their related persons
- Parliamentary Service employees and prospective employees
- Parliamentary Service suppliers, contractors and tradespeople
- visitors to Parliament House, and
- subscribers to parliamentary publications, services and mailing lists.

Parliamentary Committees may also collect personal information in the course of their inquiries.

Information Privacy Principles

There are 11 IPPs contained in the *Information Privacy Act 2009*. The IPPs specify how personal information is to be collected, stored, secured, accessed, amended, used and disclosed.

Collection

IPP1: Collection of personal information (lawful and fair)

- Limits the scope of the collection and the way in which the Parliamentary Service collects personal information.

IPP2: Collection of personal information (requested from individual)

- Requires the Parliamentary Service to give individuals notice about the purpose of the collection, disclosures and subsequent disclosures (eg forms for collecting names and addresses should give notice if personal information is likely to be passed on to a third party).

IPP3: Collection of personal information (relevance, etc)

- Outlines requirements regarding relevance and recency of information collected, and the way in which the Parliamentary Service collects personal information (eg full addresses should only be asked for where necessary, and reasonable steps should be taken to keep databases up to date).



Storage and security

IPP4: Storage and security of personal information

- Requires protection against loss, unauthorised access, use, modification or disclosure and any other misuse (eg personal information should be securely stored); and
- Prevention of unauthorised use or disclosure of personal information by contractors (eg contracts with third parties to build a database involving personal information should include a privacy clause).

Access and amendment

IPP5: Providing information about documents containing personal information

- Reasonable steps must be taken by the Parliamentary Service to ensure that an individual can find out what documents held by the Service may contain their personal information, the type of personal information, the purpose for which the personal information is included in those documents and what the individual is required to do to obtain access to those documents.

IPP6: Access to documents containing personal information

- Individuals may request access to documents held by the Parliamentary Service that contain their personal information. The Parliamentary Service must provide access to documents when requested unless access is restricted, for example if the Parliamentary Service is required to refuse access by law.

IPP7: Amendment of documents containing personal information

- The Parliamentary Service must take reasonable steps to ensure that personal information is amended and kept up to date and accurate.

Use

IPP8: Checking of accuracy etc of personal information before use by agency

- The Parliamentary Service must take reasonable steps to ensure that any personal information is accurate, complete and up to date.

IPP9: Use of personal information only for relevant purpose

- The Parliamentary Service must only use personal information for the particular purpose which an individual was made aware of at the time of disclosing their personal information.

IPP10: Limits on use of personal information

- The Parliamentary Service can only use personal information for a purpose other than the particular purpose that was originally specified if one of the following exemptions applies:
 - express agreement by an individual
 - implied agreement (eg if a member of the public attends a public committee hearing for an inquiry where there are photographs being taken, the individual should be aware their image may be used in the committee's inquiry report)
 - serious threat to the life, health, safety, welfare of an individual or to public health, safety or welfare
 - required or authorised by law
 - required for law enforcement, or
 - required for research and statistical analysis that is in the public interest.



Disclosure

IPP11: Limits on disclosure

- The Parliamentary Service must not disclose personal information to a third party unless one of the exemptions with respect to IPP10 applies.
- All reasonable steps must be taken to ensure that a third party recipient of personal information that was disclosed appropriately under one of the exemptions will not use or disclose the information for another purpose.
- There is additional limitations on disclosure where the information may be used for marketing to the individual (see *Information Privacy Act 2009*, Sch 3, IPP11(4)).

Documents exempt from IPPs

There are types of documents which are exempt from the application of the IPPs. The exhaustive list is contained in Schedule 1 of the *Information Privacy Act 2009*. Exempt documents relevant to the Parliamentary Service's functions are summarised below.

Disciplinary actions or misconduct

A document to the extent it contains personal information arising out of:

- a complaint under the *Police Service Administration Act 1990*, part 7; or
- a complaint, or an investigation of corruption, under the *Crime and Corruption Act 2001*.

Public Interest Disclosure

A document to the extent it contains personal information:

- contained in a public interest disclosure under the *Public Interest Disclosure Act 2010*; or
- that has been collected in an investigation arising out of a public interest disclosure under the *Public Interest Disclosure Act 2010*.

Commissions of Inquiry

A document to the extent it contains personal information arising out of a commission of inquiry.

Cabinet and Executive Council

A document to the extent it contains personal information that is also subject to the *Right to Information Act 2009*, schedule 3, sections 1, 2 or 3.

Generally available publications, archives and posted articles

A document that is:

- a generally available publication
- kept in a library, art gallery or museum for the purposes of reference, study or exhibition
- a public record under the *Public Records Act 2002* in the custody of Queensland State Archives that is not in a restricted access period under that Act, or
- a letter, or anything else, while it is being transmitted by post.



Personal information held by the Parliamentary Service

There are several classes of personal information held by the Parliamentary Service for varying reasons. This information is treated as confidential in nature and is accessed by Parliamentary officers and employees on a need to know basis, relevant to their roles and functions.

These include:

- **personnel records**, including information relating to next of kin, payroll, recruitment and workplace accidents/injuries
- **Parliamentary Service employee contact lists** (ie names and mobile phone numbers for mass communication where immediate contact with all staff is required)
- **supplier and client contact lists**
- **mailing and subscriber lists** held among various service areas (eg by the Committee Office to inform subscribers about committee business and by Catering Services to inform subscribers about upcoming catering events)
- **financial management information** related to both Members' and former Members' entitlements, as well as service providers' and contractors' financial details
- **visitor information** – the Visitors' Book contains the name and phone number of individuals that visit the Queensland Parliament; and, if the individual is visiting a specific Parliamentary Service employee or Member of Parliament, the name of this host is also recorded.

It should also be noted that depending on the circumstances some personal information held by the Parliamentary Service may be subject to Parliamentary Privilege.

Access and amendment procedures

Should a person wish to access or amend any of their personal information that is held by the Parliamentary Service, they should contact the Privacy Officer (Privacy@parliament.qld.gov.au) who will assess and facilitate this request as appropriate and subject to the obligations under the *Information Privacy Act 2009*.

Parliamentary Service employees can access and amend their personal information relating to personnel records by contacting Human Resources (HumanResourceManagement@parliament.qld.gov.au).

Review procedures

If you believe that your personal information has not been dealt with in accordance with the Parliamentary Service's obligations under the *Information Privacy Act 2009*, you may make a complaint in writing to the Parliamentary Service. This complaint must be made within 12 months from the date you first became aware of the act that is the subject of the complaint.

Complaints should be forwarded to:

By email:

Privacy@parliament.qld.gov.au

By mail:



Privacy Officer
Deputy Clerk's Office
Queensland Parliament
Cnr of George and Alice Streets
Brisbane QLD 4000

Complaints will be acknowledged in writing within 5 business days from the date on which the complaint was received and processed within 45 business days. The complainant will be advised in writing of the decision including any remedies that are considered appropriate in resolution of the matter.

If a complainant does not agree with a decision, they can apply in writing to the Clerk of the Parliament to review the matter:

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

By mail:
Clerk of the Parliament
Queensland Parliament
Cnr of George and Alice Streets
Brisbane QLD 4000

On receiving the request, the Clerk of the Parliament will appoint a panel to conduct an internal review of the initial decision. Applications for internal review must be made within 28 days of the complainant receiving the final decision notice. The internal review will be completed within 45 business days of receipt of the application for review and the complainant will be advised of the outcome of this decision.

If the complainant does not receive a decision within the specified timeframes, or is not satisfied with the decision, the applicant may make a complaint to the Information Commissioner:

By email:
enquiries@oic.qld.gov.au

By mail:
Office of the Information Commissioner
PO Box 10143
Adelaide Street Brisbane
Queensland 4000

In the first instance, the Information Commissioner will attempt to resolve the complaint informally through mediation. Should resolution not be forthcoming, the Information Commissioner will review the original decision and either affirm the decision, vary the decision, or set the original decision aside and make a new decision.

There is a final appeal process where the Information Commissioner has the power to refer the complainant to the Queensland Civil and Administrative Tribunal (QCAT). However, this avenue is only available in the specific circumstance where a question of law has been raised during the appeals process.

