

Information policy

Right to Information and Information Privacy

Updated: January 2020

The Queensland Government has committed to proactively making information available to the public.

The Queensland Curriculum Assessment Authority (QCAA) is committed to providing an open, transparent and accountable environment enabling members of the public to access documents held by the QCAA, subject to those exemptions defined in the *Right to Information (RTI) Act 2009* (Qld).

Definitions

In this policy, **document** refers to any way that information can be recorded (loose or filed, draft or final) such as:

- any paper or other material on which there is writing, e.g. letters, sticky notes, diaries, record cards
- any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them, e.g. charts, maps, plans, photographs
- any disk, tape* or other article or any material from which sounds, images, writings or messages can be produced or reproduced (with or without the aid of another article or device), e.g. microfilm, microfiche, X-ray, CT and MRI scan, audio, video tape, CD, DVD, hard drive, USB, email, text message, metadata, database.

*Generally, backup tape is not included in this definition as an RTI or IP applicant cannot ask for these.

Purpose

This policy ensures the following.

- Members of the public have
 - a right of access to information held by the QCAA subject to those exemptions defined in the RTI Act
 - a right of access to and amendment of their personal information held by the QCAA as defined in the *Information Privacy (IP) Act 2009* (Qld)
 - an avenue for making a privacy complaint.
- the QCAA satisfactorily
 - deals with any privacy complaint
 - deals with privacy breaches
 - meets the requirements of the IP Act when transferring personal information outside of Australia.

This policy is governed by:

- RTI Act
- IP Act
- ministerial guidelines.

Scope

This policy applies to:

- all QCAA employees including contractors, consultants, casuals and agency staff
- QCAA Chair and Board members.

Policy content

This policy contains six parts:

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1 Part 1 — Right to Information (RTI)

Right to Information is the Queensland Government’s commitment to improving the openness, transparency and accountability of the public sector.

The RTI Act requires the QCAA to release government information proactively or upon formal request unless one of the following applies:

- it is exempt as defined under the Act
- it would be contrary to the public interest.

1.1 QCAA’s approach to RTI

The QCAA takes all reasonable steps to proactively release information about the organisation. QCAA work units should actively develop and review processes toward the proactive release of information:

- on the QCAA’s RTI webpages www.qcaa.qld.edu.au/about/corporate-policies/rti
- through a scheme for the administrative release of information www.qcaa.qld.edu.au/about/corporate-policies/rti/publication-scheme.

Requests for information that is not proactively released are referred to the Policy Unit.

RTI/IP decision-makers

RTI applications are processed by a QCAA RTI/IP decision-maker. RTI/IP decision-makers deal with applications under a delegation from the QCAA’s Chief Executive Officer (CEO).

When responding to RTI queries and applications, a QCAA RTI/IP decision-maker will refer to the:

- information resources available on the Office of the Information Commissioner (OIC) website www.oic.qld.gov.au/information-for/government
- RTI Act and RTI Regulation
- IP Act and IP Regulation
- other sources of relevant information, e.g. case law.

1.2 Practice for the release of information

The following table shows the QCAA practice for the release of information to the public.

QCAA RTI webpages	Type of release
Published information	Proactive
Administrative access scheme	Proactive
Feedback/request for assistance	Proactive
Disclosure log	RTI
RTI application	RTI

1.2.1 Published information

The Policy Unit manages the QCAA's RTI 'Publication scheme' webpage: www.qcaa.qld.edu.au/about/corporate-policies/rti/publication-scheme.

The QCAA information listed on the webpage is:

- free online and/or for purchase
- grouped and accessible through the seven classes of information determined by the Department of the Premier and Cabinet.

Seven classes of published information

Class	Description
1. About us	Organisational information, structures, locations and contacts
2. Our services	Information about the services we offer
3. Our finances	Information about projected and actual income and expenditure, procurement, contracts and financial audit
4. Our priorities	Strategies and plans, performance indicators, audits, inspections and reviews
5. Our decisions	Our decision-making processes and records of decisions
6. Our policies	Current writing protocols, policies and procedures for delivering our services and responsibilities
7. Our lists	Public registers and lists

1.2.2 Administrative access scheme

In the first instance, information sought by the public is released administratively by the QCAA if possible.

QCAA work units develop and review processes for proactively releasing information through an administrative access scheme (either for free or for payment). The Policy Unit is responsible for this scheme.

The QCAA's administrative access scheme:

- is essential reading for all QCAA employees as part of their RTI/IP training
- aims for consistency in administratively, rather than legislatively, releasing information through RTI
- sets out the circumstances that documents can be released to a person or organisation at their request without a formal RTI application
- is the starting point for reference in dealing with queries for obtaining information
- provides a simpler and less formal way of providing access to information held by the QCAA
- lists the approved processes that QCAA work units develop for proactively releasing information.

1.2.3 Feedback/request for assistance

The QCAA encourages individuals to contact a QCAA RTI/IP decision-maker before lodging a formal RTI application. This can be done using the *Right to information feedback/request for assistance* form, available on the QCAA website www.qcaa.qld.edu.au/about/corporate-policies/rti/rti-request-assistance.

An individual can be provided with access to documents (excluding those relating to other individuals' personal information) as and when deemed appropriate by a QCAA RTI/IP decision-maker, rather than requiring the individual to lodge a formal RTI application.

1.2.4 Disclosure log

If it is in the public's interest to have access, the QCAA's RTI webpage *Disclosure log* at www.qcaa.qld.edu.au/about/corporate-policies/rti/disclosure-log will list and make available:

- documents that have been made available through a formal RTI application
- documents that have been made available by request and that have not been previously proactively released.

The QCAA's *Disclosure log* does not list or make available documents that have been made available through a formal IP application.

1.2.5 RTI application

If the QCAA does not proactively make documents available to an individual; the individual can lodge a formal RTI application (legislative request) as a last resort.

To comply with legislation, **QCAA work units must treat RTI search requests as a matter of priority** and deal with them **immediately**.

Lodging a formal RTI application

A valid application must:

- include a completed approved RTI application form, letter or email
- include an address for notices and responses under the RTI Act
- provide sufficient information concerning the documents to enable a QCAA RTI/IP decision-maker to identify them
- include the application fee
- comply with any other relevant matters of the RTI Act.

A QCAA RTI/IP decision-maker may contact the applicant to clarify the scope of the application.

The application is taken only to apply to documents that are in existence on the day the application is received.

Steps in dealing with a formal RTI application

Who is responsible	Description of responsibility
RTI applicant	<ul style="list-style-type: none"> • Provide a valid application.
QCAA RTI/IP decision-maker	<ul style="list-style-type: none"> • Check if the RTI application complies with legislated requirements. • Decide whether to process under RTI, taking into account <ul style="list-style-type: none"> – the existence of a process for the proactive release of the documents – documents that are exempt – public interest in disclosing or not disclosing the documents. • Consult with the applicant to clarify the scope of the application. • Issue a search request for documents to CAA work unit/s. • Estimate processing and access charges. • Provide a Schedule of relevant documents and a Charges estimate notice (CEN) to the applicant. • Consult a third party where the release of information may reasonably be expected to concern the third party. • Provide a <i>Notice of considered decision</i> indicating whether or not access will be given and providing the details of any processing and access charges payable. • Disclose the documents to the applicant upon receipt of payment of any processing and access charges.
QCAA work unit	<ul style="list-style-type: none"> • Immediately respond to a search request for documents from QCAA RTI-IP decision-maker. • Provide documents as requested to a QCAA RTI/IP decision-maker as a matter of priority.

Refusing access

Under section 47 of the RTI Act, the QCAA's RTI/IP decision-maker may refuse access to a document because it:

- comprises **exempt information** (section 48)

The QCAA's RTI/IP decision-maker:

- may refuse access to a document because the document comprises exempt information (schedule 3 of the RTI Act)
- must give access to a copy of a document from which exempt information has been deleted where it
 - is practicable to do so
 - appears to the decision-maker that the applicant would wish to be given access to such a copy.
 It remains open to the decision-maker to give access under the RTI Act to exempt documents sought in an access application.

- comprises information that disclosure of would be **contrary to the public interest** (section 49)

Applying the public interest test

When applying the public interest test, the QCAA's RTI/IP decision-maker:

- may exercise their discretion and decide to give access to all or part of a document even if access may be refused
- must decide to give access to a document unless disclosure would be contrary to the public interest
- must consider the public interest factors that apply to the information contained in a document
- must consider whether it is practicable to delete information in a document if its disclosure would be contrary to the public interest.

Grounds for refusal

The QCAA's RTI/IP decision-maker must establish that disclosure would be contrary to the public interest before access to information can be refused.

Access to a document can be refused on these grounds to the extent that:

- it **contains information that is exempt** under section 48 of the RTI Act
- disclosure of the information would be **contrary to the public interest** under section 49
- it meets the conditions of **other grounds** (s.47(3)(c)/s.50, s.47(3)(d)/s.51, s.47(3)(e), s.47(3)(f)/s.53
- **other relevant matters** have been raised by the applicant or a third party or are apparent when considering the information or circumstances of the application.

- is sought for a child, contains the child's personal information and disclosure would **not be in the child's best interests** (section 50)
- contains the child's personal information and disclosure would **not be in the child's best interests** (section 50)
- comprises an applicant's healthcare information and disclosure of which might be **prejudicial to the physical or mental health or wellbeing** of the applicant (section 51)
- is **non-existent or unlocatable** (section 52)
- is **available by other access** (section 53).

2 Part 2 — Information Privacy (IP)

Information Privacy is the Queensland Government's commitment to providing:

- protection of personal information collected and held by Queensland Government agencies
- a legally enforceable right for an individual to apply to access and amend their personal information.

The IP Act provides rules for what the QCAA must and may do with personal information. The QCAA must be careful when it collects, stores, accesses, amends, uses or discloses people's personal information.

What is personal information?

Personal information is **any information that would allow an individual to be identified**.

Examples of personal information

- | | |
|---|---|
| <ul style="list-style-type: none">• names and initials• date and place of birth• age• addresses• signature• private telephone numbers• nature of relationship or marital status | <ul style="list-style-type: none">• financial/banking details• education standards/qualifications• details of religion• medical information• nature of injuries• details of medical treatment• physical characteristics, e.g. eye colour. |
|---|---|

Routine personal work information

Routine personal work information is any information that is related solely and wholly to the routine work duties and responsibilities of a public service officer.

Examples of routine personal work information

- a work email address
- a work phone number
- authorship of a work document, e.g. John Smith is listed as one of the writers of a report
- a professional opinion given wholly in a professional capacity
- a work classification, e.g. John Smith, AO6 Project Officer, Administration Unit
- a work responsibility, e.g. John Smith is the contact officer and deals with complaints
- incidental appearances of a person's name in work documents, e.g. John Smith as the author of a letter; his signature as an officer of the QCAA; a mention of him as a member of a team or project, or holding a given position, on a QCAA website or in a report
- information about qualifications held where they are required for the officer's position, e.g. John Smith, Scientific Officer, holds a Bachelor of Science.

Non-routine personal work information

Any information that is **not related** solely and wholly to the routine work duties and responsibilities of a public service officer cannot be considered to be routine personal work information, and must be dealt with on a case by case basis in line with the IP Act or the RTI Act.

Examples of non-routine personal work information

- complaints made by or about a public service officer
- reasons why an officer is accessing leave entitlements of any kind or when they have taken, or intend to take, leave
- opinions expressed at work that are not about work
- an unsuccessful application by an officer for another public service position
- details of how an officer uses the flexible working hours arrangement
- opinions or reports about how well an officer performs their duties.

2.1 QCAA's approach to IP

The QCAA takes all reasonable steps to protect the personal information it holds and give individuals the ability to access and amend their personal information.

QCAA work units should actively develop and review processes to:

- protect the personal information they hold
- proactively provide individuals with the ability to access and amend their personal information.

Requests to access or amend personal information (where there is no proactive means available) are referred to the Policy Unit.

RTI/IP decision-makers

IP applications to access or amend personal information are processed by a QCAA RTI/IP decision-maker.

RTI/IP decision-makers deal with applications under a delegation from the QCAA's Chief Executive Officer (CEO).

When responding to IP queries and applications, a QCAA RTI/IP decision-maker will refer to the:

- information resources available on the OIC website www.oic.qld.gov.au/information-for/government
- IP Act and IP Regulation, in particular
 - schedule 3 of the Act — Information privacy principles (IPPs)
 - section 33 of the Act — Transfer of personal information outside Australia
 - chapter 2, part 4 of the Act — Compliance with parts 1 to 3 by contracted service provider
- RTI Act, RTI Regulation
- Other sources of relevant information, e.g. case law.

2.2 Practice for complying with the Information privacy principles (IPPs)

The QCAA takes all reasonable steps to comply with the requirements of the IPPs.

IPPs — Schedule 3 of the IP Act	
Collection	IPP 1 — Collection of personal information (lawful and fair) IPP 2 — Collection of personal information (requested from individual) IPP 3 — Collection of personal information (relevance, etc.)
Storage and security	IPP 4 — Storage and security of personal information
Openness	IPP 5 — Providing information about documents containing personal information
Access	IPP 6 — Access to documents containing personal information
Amendment	IPP 7 — Amendment of documents containing personal information
Accuracy	IPP 8 — Checking of accuracy etc. of personal information before use by an agency
Use	IPP 9 — Use of personal information only for relevant purpose IPP 10 — Limits on use of personal information
Disclosure	IPP 11 — Limits on disclosure

2.2.1 Practice for complying with the Information privacy principles (IPPS)

When collecting personal information, QCAA work units:

- may use voice, letter, form or email
- will not use illegal or unfair means
- will not intrude unreasonably on an individual's private life,
- will only collect personal information required for a lawful purpose related to a QCAA function or to meet another legislated requirement
- will take steps to make sure that the personal information collected is accurate
- will give the individual a collection notice that states the purpose, legal authority, who the information will be disclosed to and who, in turn, the information may be disclosed to.

Collection notices

Collection notices are a requirement under IPP 2.

All means by which the QCAA collects personal information must include a collection notice.

Collection notices will be determined by a QCAA RTI/IP decision-maker in consultation with QCAA work units.

2.2.2 Storage and security of personal information

QCAA work units should take all reasonable steps to prevent loss, unauthorised access, use, modification or disclosure and any other misuse of personal information.

Possible steps that QCAA work units should take include:

- consulting with the QCAA RTI/IP decision-maker
- consulting with the QCAA ICT Branch
- making sure that
 - personal information is not left on desks after hours
 - personal information not required for direct access is stored securely
 - only secure document destruction bins or shredders are used for the disposal of documents containing personal information, e.g. any letters containing a person's name and address details are not to be placed in a general rubbish bin)
 - staff members do not remove personal information from the premises
 - if a reason exists for a staff member to remove personal information from the premises that it is carried using a secure means, e.g. an encrypted file on a PSD (refer to Part 3 — Portable Storage Devices (PSDs) or laptops of this policy document)
 - only allowing IT access to personal information that is required to perform duties
 - limiting the storage of personal information to that needed to complete the legislated function.

2.2.3 Openness to matters about personal information

This policy sets out the QCAA's management of personal information and is available to anyone who asks for it.

If requested by an individual, a QCAA RTI/IP decision-maker will take all reasonable steps to let the individual know:

- what sort of personal information the QCAA holds, for what purposes, and how it collects, holds, uses and discloses that information
- the avenues for access and amendment to personal information.

2.2.4 Access to personal information

IP application

If the QCAA does not proactively make a document containing personal information available to the individual who is the subject of the personal information, the individual can lodge a formal IP application (legislative request) as a last resort.

To comply with legislation **QCAA work units must treat IP search requests as a matter of priority** and deal with them **immediately**.

Lodging a formal IP application

A valid application must:

- include a completed approved IP application form, letter or email
- include an address for notices and responses under the IP Act
- provide sufficient information concerning the document to enable a QCAA RTI/IP decision-maker to identify the document
- include evidence of the identity of the applicant
 - if an agent is acting for the applicant, evidence of the agent's identity and authorisation must be provided
- comply with any other relevant matters of the IP Act.

A QCAA RTI/IP decision-maker may contact the applicant to clarify the scope of the application.

The application is taken only to apply to documents that are in existence on the day the application is received.

Dealing with a formal IP application

Formal IP applications are processed by a QCAA RTI/IP decision-maker.

When dealing with a formal IP application a QCAA RTI/IP decision-maker will refer to the:

- information resources available on the OIC website www.oic.qld.gov.au/guidelines/for-government/access-and-amendment
- IP Act and IP Regulation
- RTI Act and RTI Regulation
- other sources of relevant information, e.g. case law.

Steps in dealing with a formal IP application

Who is responsible	Description of responsibility
IP Applicant	<ul style="list-style-type: none">• Provide a valid application.
QCAA RTI/IP decision-maker	<ul style="list-style-type: none">• Check if the IP application complies with legislated requirements.• Decide whether to process under IP, taking into account<ul style="list-style-type: none">– the existence of a process for the proactive release of the document– documents that are exempt– public interest in disclosing or not disclosing a document.• Consult with the applicant to clarify the scope of the application.• Issue a search request for documents to QCAA work unit/s.• Consult a third party where the release of information may reasonably be expected to concern the third party.• Estimate access charge.• Provide a <i>Notice of considered decision</i> on access indicating whether or not access will be given and providing the access charge to the applicant.• Disclose the documents to the applicant upon receipt of payment of any access charge.

Who is responsible	Description of responsibility
QCAA work unit	<ul style="list-style-type: none"> • Immediately respond to a search request for documents from a QCAA RTI/IP decision-maker. • Provide documents as requested to a QCAA RTI/IP decision-maker as a matter of priority.

Refusing access

Under section 67 of the IP Act, the QCAA's RTI/IP decision-maker may refuse access to a document under section 47 of the RTI Act. Refer to *Part 1 — Right to Information (RTI), Refusing access* of this policy document.

2.2.5 Amendment of personal information

IP amendment application

If the QCAA does not proactively allow individuals the ability to amend their personal information, the individual can lodge a formal IP amendment application (legislative request) as a last resort.

To comply with legislation **QCAA work units must treat IP search requests as a matter of priority** and deal with them **immediately**.

Lodging a formal IP amendment application

A valid application must:

- include a completed approved IP application form, letter or email
- include an address for notices and responses under the IP Act
- provide sufficient information concerning the document to enable a QCAA RTI/IP decision-maker to identify the document
- include evidence of the identity of the applicant
 - if an agent is acting for the applicant, evidence of the agent's identity and authorisation must be provided
- comply with any other relevant matters of the IP Act.

A QCAA RTI/IP decision-maker may contact the applicant to clarify the scope of the application. The application is taken only to apply to documents that are in existence on the day the application is received.

Dealing with a formal IP amendment application

Formal IP amendment applications are processed by a QCAA RTI/IP decision-maker.

When dealing with a formal IP amendment application a QCAA RTI/IP decision-maker will refer to the:

- information resources available on the OIC website www.oic.qld.gov.au/guidelines/for-government/access-and-amendment
- IP Act and IP Regulation
- RTI Act and RTI Regulation
- other sources of relevant information, e.g. case law.

Steps in dealing with a formal IP amendment application

Who is responsible	Description of responsibility
IP Applicant	<ul style="list-style-type: none"> • Provide a valid application.
QCAA RTI/IP decision-maker	<ul style="list-style-type: none"> • Check if the IP application complies with legislated requirements. • Decide whether to process under IP, taking into account <ul style="list-style-type: none"> – the existence of a process for the proactive amendment of the personal information – existence of grounds for refusal. • Consult with the applicant to clarify the scope of the application. • Issue a search request for documents to QCAA work unit/s. • Provide a <i>Notice of considered decision</i> on amendment indicating whether or not amendment is permitted to the applicant. • Make the amendment to a document by alteration or notation; add a notation to personal information.
QCAA work unit	<ul style="list-style-type: none"> • Immediately respond to a search request for documents from a QCAA RTI/IP decision-maker. • Provide documents as requested to a QCAA RTI/IP decision-maker as a matter of priority.

Grounds for refusal

Under section 72 of the IP Act, the QCAA's RTI/IP decision-maker may refuse to amend the document if at least one of the following applies:

- the decision-maker is not satisfied that
 - the personal information is accurate, complete, up to date or not misleading
 - the information sought to be amended is personal information of the applicant
 - an application made by an agent is suitably authorised
- if the document does not form part of a functional record.

2.2.6 Accuracy of personal information

QCAA work units must take all reasonable steps to ensure that, in regard to the purpose for which it is to be used, personal information under the control of the QCAA is accurate, complete and up to date.

2.2.7 Use of personal information

QCAA work units must take all reasonable steps to ensure that personal information under the control of the QCAA will only be used as relevant to performing a QCAA function or to meet another legislated requirement.

QCAA work units will not use personal information under the control of the QCAA for another purpose unless a QCAA RTI/IP decision-maker has determined that at least one of the following applies:

- the individual who is the subject of the personal information has expressly or impliedly agreed to the use of the personal information for the other purpose

- the use of the personal information for the other purpose 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
- the use of the personal information for the other purpose is authorised or required under a law
- the use of the personal information for the other purpose is necessary by or for a law enforcement agency for one or more of the following reasons
 - to prevent, detect, investigate, prosecute or punish criminal offences or breaches of laws imposing penalties or sanctions
 - to enforce laws relating to the confiscation of the proceeds of crime
 - to protect public revenue
 - to prevent, detect, investigate or remedy seriously improper conduct
 - to prepare for, or conduct, proceedings before any court or tribunal, or implement the orders of a court or tribunal
- the other purpose is directly related to the purpose for which the information was obtained
- all of the following apply
 - the use is necessary for research or the compilation or analysis of statistics and is in the public interest
 - the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual that is the subject of the personal information
 - it is not practicable before use to obtain the express or implied agreement of each individual who is the subject of the personal information.

2.2.8 Disclosure of personal information

QCAA work units will take all reasonable steps to ensure that personal information under the control of the QCAA is not disclosed to another party other than the individual who is the subject of the personal information.

Publication of an individual's personal information by the QCAA

QCAA work units will not publish an individual's personal information in a QCAA publication without the individual's consent.

Disclosure of an individual's personal information to the individual

To make sure that an individual's personal information is not disclosed to others (except an agent authorised to access this information), QCAA work units will establish:

- the identity of the individual before disclosing personal information
- procedures to make sure that any information intended for the individual is received only by the individual, e.g. emailing personal information using an encrypted file.

Having established the individual's identity, QCAA work units may disclose the individual's personal information to them by voice, letter, form or email.

Disclosure of an individual's personal information to the individual's agent

To make sure that an individual's personal information is not disclosed to others (except an agent authorised to access this information), QCAA work units will establish:

- the identity of the individual's agent **and** the agent's authorisation **and** the identity of the individual before disclosing personal information
- appropriate procedures to make sure that any information intended for the individual's agent is received only by the individual's agent, e.g. emailing personal information using an encrypted file.

After establishing the identity of the individual's agent **and** the agent's authorisation **and** the identity of the individual, QCAA work units may disclose the individual's personal information to the agent by voice, letter, form or email.

Disclosure of a child's personal information to the child's parent

In this section:

- **child** means an individual who is under 18 years
- **parent** means the child's mother, father or a person who exercises parental responsibility for the child, including a person who is granted guardianship of the child under the *Child Protection Act 1999* (Qld) or who otherwise exercises parental responsibility for the child under a decision or order of a federal court or a court of a state. However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child. A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child. A parent of a Torres Strait Islander child includes a person who, under Torres Strait Islander custom, is regarded as a parent of the child.

To make sure that a child's personal information is not disclosed to an individual who is not the parent of the child, QCAA work units will establish:

- the identity of the child's parent **and** proof of parenthood **and** the identity of the child before disclosing personal information
- that the disclosure would not be contrary to the child's best interests (refer to section 50 of the RTI Act)
- procedures to make sure that any information intended for the child's parent is received only by the child's parent, e.g. emailing personal information using an encrypted file.

After establishing the identity of the child's parent **and** proof of parenthood **and** the identity of the child, QCAA work units may disclose the child's personal information to the child's parent by voice, letter, form or email.

Disclosure of an individual's personal information to another organisation

QCAA work units will not disclose an individual's personal information to another organisation unless at least one of the following applies:

- the means of collecting the individual's personal information provided a collection notice indicating that the personal information will be disclosed to the applicable organisation
- the other organisation has obtained signed permission from the individual and has provided a copy of this to the QCAA (in cases where the organisation is requesting more than one individual's personal information, a QCAA RTI/IP decision-maker will determine whether or not identification of each individual is required)

- the QCAA has received a written request (including evidence of identification) from the individual who is the subject of the personal information to provide it to another organisation
- the QCAA is authorised or required under a law to provide the individual's personal information.

When providing personal information held by the QCAA to another organisation, QCAA work units will provide the other organisation with a statement such as:

- The personal information you have been provided must be handled in accordance with the IP Act.
- The document you have been provided contains personal information which must be handled in accordance with the IP Act.

Dealing with disclosure of personal information for research

Research applications for personal information are processed by a QCAA RTI/IP decision-maker.

When dealing with a research application a QCAA RTI/IP decision-maker will refer to the:

- information resources available on the OIC website www.oic.qld.gov.au/information-for/government
- IP Act and IP Regulation
- RTI Act and RTI Regulation
- other sources of relevant information, e.g. case law.

Contracted service providers

QCAA work units will make sure that all contracts bind service providers to comply with the IP principles of the IP Act in relation to personal information.

This will affect all areas and aspects regarding commercial activities and procurement.

QCAA work units will liaise with the Policy Unit and the Director (Strategy, Planning and Corporate Support Division) on matters in relation to contracts with service providers.

3 Part 3 — Portable storage devices or laptops

The Information privacy principles (IPPs) include obligations to appropriately protect and secure personal information and to ensure it is not improperly or unlawfully accessed, used or disclosed.

Failure to meet these obligations could result in a breach of the privacy principles:

- IPP4, concerning storage and security of personal information
- IPP11, which prohibits the disclosure of personal information.

One example of a privacy breach is a lost or stolen personal storage device (PSD) or laptop containing personal information.

What are portable storage devices?

Portable storage devices (PSDs) are small, lightweight, portable devices capable of storing large amounts of data.

Examples of PSDs include:

- USB flash drives (also called USB keys or thumb drives)
- portable external hard drives
- personal digital assistants (PDAs), smart phones, MP3 players.

Risks of PSDs and laptops

PSDs and laptops:

- can store of extremely large amounts of personal information
- are portable and therefore easily lost, misplaced or stolen
- can introduce malicious software used for data theft
- leave the QCAA open to information being stored on non-QCAA networks and the loss of data to dishonest individuals.

3.1 QCAA's approach to PSD or laptop usage

The QCAA takes all reasonable steps to address the risks associated with use of PSDs and laptops.

Issues about the use of PSDs or laptops in relation to personal information are referred to the following officers:

- Policy Unit
- Principal Information Officer
- Chief Information Officer.

The QCAA will adhere to the requirements of PSD or laptop usage as issued by the Queensland Government Chief Information Officer (QGCIO) in the following documents:

- **Information Standard 18: Information security policy**
The QCAA must protect information (including the facilities and devices that store information)

from misuse, loss and from unauthorised access, modification or disclosure (see www.qgcio.qld.gov.au/documents/information-security-policy).

- **Queensland Government Information Security Classification Framework (QGISCF)**
The QGISF is a consistent approach to information security classifications across Queensland Government (see www.qgcio.qld.gov.au/documents/information-security-classification-framework-qgisfcf).
- **Queensland Government Authentication Framework (QGAF)**
The QGAF covers the requirements for authentication mechanisms including those for PSDs, i.e. hardware cryptographic tokens (see www.qgcio.qld.gov.au/documents/queensland-government-authentication-framework-qgaf).
- **Information Standard 38: Use of ICT services, facilities and devices policy**
Information Standard 38 sets out the implementation of consistent policies and practices in the management of the use of ICT facilities and devices (including PSDs) across Queensland Government (see www.qgcio.qld.gov.au/documents/use-of-ict-services,-facilities-and-devices-policy-is38).

Authorised PSD or laptop usage

Personal and confidential information should not be stored on PSDs or laptops, but if it is absolutely necessary to do so, the information must be protected by encryption or passwords.

The QCAA will control and audit all QCAA-issued equipment.

Managing the risk of PSD or laptop usage

To prevent breaches of IPP4 (storage and security) or IPP11 (disclosure) in the event of a PSD or laptop being lost, misplaced, stolen or files deleted, the following points must be adhered to:

- Only store personal information on a PSD or laptop when absolutely necessary.
- Protect personal and confidential information by using encryption or passwords if it is stored on a PSD or laptop.
- Only copy files to a PSD or laptop — do not move them.
- Treat a PSD or laptop as transit media, not as long-term storage media.
- Transfer files on a PSD or laptop to the QCAA network as soon as possible and securely delete the files from the PSD or laptop.
- Immediately report the loss or theft of a PSD or laptop to the Policy Unit.

4 Part 4 — Privacy complaints

Chapter 5 of the IP Act provides for an individual to make a complaint about a breach of the IPPs or the conditions of a public interest approval that affect that individual's personal information, which occurred **on or after 1 December 2009**.

The **IPPs** include obligations to appropriately protect and secure personal information and to ensure it is not improperly or unlawfully accessed, used or disclosed.

A **public interest approval** (s.157 of the IP Act — Waiver or modification approval) sets out the modified way in which compliance with the IPPs will be met.

4.1 QCAA's approach for privacy complaints

The QCAA takes all reasonable steps when dealing with privacy complaints.

Privacy complaints are referred to the following officers:

- Policy Unit
- Principal Information Officer
- Chief Information Officer.

When responding to a privacy complaint the QCAA will refer to the:

- information resources available on the OIC website www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/privacy-complaints
- IP Act and IP Regulation
- other sources of relevant information, e.g. case law.

The QCAA will respond to a valid privacy complaint by 45 business days following receipt of the complaint.

4.2 Lodging a privacy complaint

A valid privacy complaint must:

- include a completed approved QCAA form, letter or email
- include an address for notices and responses under the IP Act
- provide full details of the activity that the complainant believes has breached the IPPs or the public interest approval
- be about a breach that affects that individual's personal information which occurred **on or after 1 December 2009**.

The QCAA may also require the complainant to supply identification and supporting documentation.

Who may make a privacy complaint?

A privacy complaint may be made by:

- an individual whose personal information is held, or has been held, by the QCAA (Note: an agent, e.g. a lawyer, may complain on behalf of a person and a parent may complain on behalf of a child)

- the Ombudsman
- the office of the Health Ombudsman
- a person or body that has the same or substantially similar responsibilities as the Queensland Information Commissioner under the IP Act, such as the Australian Privacy Commissioner or the Northern Territory Information Commissioner
- a commission or external review body if they have received the privacy complaint as part of performing their lawful functions.

What can individuals complain about?

An individual may complain about:

- the collection, management, use or disclosure of their personal information
- the transfer of their personal information outside Australia
- a public interest approval.

An individual can only complain about actions or practices that occurred **on or after 1 December 2009**.

5 Part 5 — Privacy breaches

The IPPs include obligations to appropriately protect and secure personal information and to ensure it is not improperly or unlawfully accessed, used or disclosed.

A public interest approval (s.157 of the IP Act — Waiver or modification approval) sets out the modified way in which compliance with the IPPs will be met.

A failure by the QCAA (or a QCAA's bound contracted service provider) to comply with the IPPs or a public interest approval would result in a privacy breach.

Examples of privacy breaches

- lost or stolen laptops, personal storage devices (PSDs, e.g. USB key), or physical files containing personal information
- paper records inadequately recycled or left in the garbage
- computer hard drives and other storage media disposed of without erasing or physically destroying the contents
- personal information provided to the wrong person, e.g. by sending details out to the wrong address
- an individual deceiving an agency into improperly releasing the personal information of another individual
- databases containing personal information being 'hacked into' or otherwise illegally accessed by individuals outside the agency
- employees accessing personal information outside the requirements of their employment
- files containing personal information left on a work desk or not securely stored making the files easily accessible by unauthorised individuals.

5.1 QCAA's approach to privacy breaches

The QCAA takes all reasonable steps to deal with and prevent privacy breaches.

Privacy breaches are referred to the following officers:

- Policy Unit
- Principal Information Officer
- Chief Information Officer.

When responding to a privacy breach, the QCAA will refer to:

the following 'Steps in responding to a privacy breach

- ' table
- the information resources available on the OIC website www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/privacy-compliance/privacy-breach-management-and-notification
- IP Act and IP Regulation
- other sources of relevant information, e.g. case law.

Steps in responding to a privacy breach

Step	Action
1.	<p>Breach containment and preliminary assessment</p> <p>A privacy breach will be:</p> <ul style="list-style-type: none"> • immediately contained • notified to and investigated by the Policy Unit, Principal Information Officer and Chief Information Officer • investigated further • reported to the police if appropriate.
2.	<p>Evaluation of the risks associated with the breach (damage assessment)</p> <p>To determine what action needs to be taken immediately, the following will be considered:</p> <ul style="list-style-type: none"> • what personal information was involved in the breach • the cause and extent of the privacy breach • which and how many individuals were affected • potential harm from the breach.
3.	<p>Notification</p> <p>The QCAA will take all reasonable steps to immediately notify appropriate individuals where a privacy breach may risk physical harm, humiliation, loss or damage to those individuals.</p>
4.	<p>Prevention</p> <p>The QCAA will take all reasonable steps to prevent privacy breaches. The steps may include:</p> <ul style="list-style-type: none"> • establishing adequate policies and procedures • conducting risk assessments • providing staff training and reference resources • binding contracted service providers to comply with the privacy principles.
5.	<p>Staff issues</p> <p>The QCAA's Chief Executive Officer (CEO) will make decisions on possible disciplinary action to apply to a staff member.</p>

6 Part 6 — Transfer of personal information outside Australia

The IP Act regulates the transfer of personal information **outside Australia**.

Once personal information has left the QCAA and passed into the possession of someone who is not subject to the IP Act, the protections under that Act are lost.

Transfer of personal information outside Australia must be done in accordance with **section 33** of the IP Act.

The definition of privacy principles in schedule 5 of the IP Act makes the obligation to comply with section 33 a privacy principle.

The obligations in section 33 do not replace the IPPs; rather they add an additional layer of factors that must be met when transferring information overseas.

Examples of transfer

- providing the personal information of an individual sitting an examination/test run by the QCAA to an overseas organisation
- providing a student's results to an overseas organisation
- placing personal information on the QCAA website, e.g. contained on a webpage or in a publication accessible from a webpage
- outsourcing a function to an overseas service provider involving transferring personal information to the service provider's servers in another country.

6.1 QCAA's approach for transfer of personal information outside Australia

The QCAA does not authorise the transfer of personal information outside Australia unless it is in accordance with section 33 of the IP Act. The QCAA takes all reasonable steps to prevent the recipient of the personal information from dealing with it inappropriately or using or disclosing it for a purpose other than that for which it was provided.

Decisions about the transfer of personal information outside Australia are referred to one of the following officers:

- Policy Unit
- Principal Information Officer
- Chief Information Officer.

The decision whether or not to transfer personal information outside Australia is based on:

- the meeting of at least one of the four categories listed in the following table *Situations when personal information can be transferred outside Australia*
- the information resources available on the OIC website www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/transferring-personal-information-out-of-australia
- IP Act and IP Regulation
- other sources of relevant information, e.g. case law.

Situations when personal information can be transferred outside Australia

Situation	Section of Act
<p>1. The individual has agreed to transfer</p> <ul style="list-style-type: none"> • The agreement must be: <ul style="list-style-type: none"> – fully informed, voluntary, specific, current and given by an individual with the legal capacity to do so – sought even if the individual was told in a collection notice that their information might be transferred outside Australia ▪ The individual should be told of any privacy risks that could result from the transfer 	33(a)
<p>2. The transfer is authorised or required under law</p> <ul style="list-style-type: none"> • The act and section of the legislation: <ul style="list-style-type: none"> – must be clearly identified – may require the transfer (that is, the QCAA cannot refuse to transfer) – may simply authorise the transfer (that is, the QCAA has a discretion to transfer or not to transfer) ▪ Implied legal authority may be relied upon where the law clearly requires or authorises a function or action, and it is impossible to give effect to the law without transferring the personal information. 	33(b)
<p>3. The QCAA is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of any individual, or to public health, safety and welfare</p> <ul style="list-style-type: none"> • Transfers of this kind: <ul style="list-style-type: none"> – would normally be to an entity with the capacity and authority to intervene to reduce the threat, where the intervention cannot occur without the personal information – should only be used in emergency or extraordinary situations where time is an issue. 	33(c)
<p>4. If two or more of the following apply:</p> <p>(i) The QCAA reasonably believes that the recipient of the personal information is subject to a law, binding scheme or contract that effectively upholds principles for the fair handling of personal information that are substantially similar to the IPPs.</p> <ul style="list-style-type: none"> – The QCAA may seek legal advice about the privacy laws or schemes and/or their application to the entity to which personal information is proposed to be transferred. <p>(ii) The transfer is necessary for the performance of the QCAA's functions in relation to the individual.</p> <ul style="list-style-type: none"> – This refers to an action, activity, or obligation that falls within the purpose for which the QCAA exists and is responsible for. – The transfer does not need to benefit the individual. However, the transfer must be necessary for the performance of the function, and the function must relate to the individual. (For example, a complete dataset containing other individuals' personal information cannot be transferred — only the personal information of the applicable individual and only the personal information 	33(d)

Situation	Section of Act
<p>necessary for the performance of the QCAA's functions can be transferred.)</p> <ul style="list-style-type: none"> - This point would not apply if there is a way to perform the function without transferring the personal information (even if it is slightly more onerous). <p>(iii) The transfer is for the benefit of the individual but is not practicable to seek the agreement of the individual, and if it were practicable to seek the agreement of the individual, the individual would be likely to give the agreement.</p> <ul style="list-style-type: none"> - The transfer must be for the benefit of the individual. <p>(iv) The QCAA has taken reasonable steps to ensure that the personal information it transfers will not be held, used or disclosed by the recipient of the information in a way that is inconsistent with the IPPs.</p> <ul style="list-style-type: none"> - Reasonable steps will depend on the circumstances and the nature of the personal information and could include: <ul style="list-style-type: none"> ▪ taking technical, practical or administrative steps to limit the amount of personal information transferred ▪ entering into an agreement to clarify permissible and prohibited uses and disclosures of the personal information ▪ securing the personal information from the time of transfer until its return or destruction. 	

More information

If you would like more information or have any questions about our information policy, please email the Legal Unit at rti@qcaa.qld.edu.au or telephone (07) 3120 6157.