

Information Privacy Principles

clever • skilled • creative

IPP 1 – Collection of personal information (lawful and fair)

What you need to know

- You can only collect personal information:
 - necessary to fulfil a purpose directly related to one or more of DET's functions or activities; or
 - where it's directly related to the purpose

Key questions

- What is the purpose?
- What is the function or activity?
 - check the objects of the appropriate Act (EGPA, VETE Act, Child Care etc)
 - needs to have a basis in law
- If you can't answer both of these questions satisfactorily – you shouldn't be collecting the information

Applies

- Regardless of where the information is collected from (the individual or another person / body)
- When the information is requested, or even when it's provided unsolicited

Examples

- Taking copies of identification (eg passport) when it's only necessary to see it – breaches IPP 1
- Collecting unnecessary background or financial information about someone – breaches IPP 1

Review your

- forms, questionnaires, interview questions and other tools used to gather personal information
- compare against the purpose DET is trying to fulfil
- ensure they are all necessary, and don't go further than necessary

Disclaimer: The information in this publication is provided for general purposes only. It is not to be relied on as a substitute for legal advice. Formal legal advice should be obtained for particular matters. Please send all requests for advice to the Executive Director of the Legal and Administrative Law Branch.

1

IPP 2 – Collection of personal information (requested from an individual)

What you need to know

- You need to give a “privacy notice” when DET is:
 - collecting personal information or general information that’s likely to include personal information; and
 - going to include the information in an internal document or generally available publication

Privacy notices

- let individuals know why their information is being collected
- ensure they are fully informed about how DET is going to use it and to whom it will be disclosed

Key aspects

- why the information is being collected
- any law that allows or requires the collection of the personal information (if there is one)
- any person or body to whom DET usually gives the information
- if any person or body that DET usually give the information to – in turn, gives it to anyone else

Bundling purposes together

- If there is more than 1 purpose for collection, make sure you draft so that individual can choose to advise you they’re not comfortable with one or more purposes (eg ‘marketing purposes’ should be separated from ‘assessing your child’s application for enrolment’, not bundled together)

A privacy notices can be on / in

- forms
- telephone scripts (if you give a verbal privacy notice – keep a detailed file note)
- websites
- pamphlets
- notice boards / displays at service counters
- correspondence

How to draft a privacy notice

A privacy notice ensures that people are fully informed – prior to giving you their personal information – about what you are collecting, why you are collecting it and to whom you may give it.

A privacy notice on a form should be at the top so that people read it before providing their information. In an interview setting, a privacy notice should be provided before the interview starts.

In all cases, the privacy notice should be easy to find (i.e. visible, not hidden) and easy to understand (avoid legal terms and challenging vocabulary).

There are several ways in which a privacy notice can be presented, depending on your needs:

- paragraph on a form (paper or web-based)
- written notice attached to a form (if the notice is lengthy and unable to fit on the form itself)
- written notice given to a person to read prior to interview
- poster
- leaflet
- verbal notice given to a person prior to interview (usually effective for telephone interviews).

You may wish to have people sign to say they have read the privacy notice and understand it (or click a button indicating “I have read and understand the privacy notice” before being able to submit an online form). This allows you to keep a record of what they were told at the time of collection, including what you intended to do with the information and under what circumstances the information would be given out.

Remember: A privacy notice is not the same as obtaining a person’s consent, and should not be used as a vehicle for obtaining consent. A privacy notice informs – it does not ask. A consent form, in contrast, asks for a person’s permission to put their personal information to a specific use (or disclosure). Consent is usually reserved for uses or disclosures that are outside of the original purpose for which the information was collected.

When drafting your privacy notice in accordance with Information Privacy Principle 2, which is set out in the *Information Privacy Act 2009*, you should include the following:

1. name of department
2. type(s) of information being collected
3. legislation requiring or allowing for collection of the information
4. why the information is being collected
5. who will use the information
6. who the information will or may be given to
7. the purpose for which the information will be used once given out (if known)
8. any other circumstances in which the information will be given away (e.g. where required by law) and/or steps that will be taken by the agency if it is proposed to give the information to anyone other than the person or agency listed in 6 (such as asking for the person's consent).

A simple drafting format is provided below:

"<insert 1> is collecting <insert 2> in accordance with <insert 3> in order to <insert 4>. The information will only be accessed by <insert 5>. Some of this information may be given to <insert 6> for the purpose of <insert 7>. Your information will not be given to any other person or agency unless <insert 8>."

Example privacy notice for permit application

"<The department> is collecting <your personal information> in accordance with <section 18 of the *Community Gardens and Local Hobbyists Act 2006 (Qld)*> in order to <assess your application for a Backyard Artistic Development permit>. The information will only be accessed by <authorised employees within the department>. Some of this information may be given to <the Department of Local Government and Environment> for the purpose of <updating their public register, as required by the *Environmental Monitoring Act 2006 (Qld)*>. Your information will not be given to any other person or agency unless <you have given us permission or we are required by law>."

IPP 3 – Collection of personal information (relevance etc)

Applies when DET asks:

- *an individual for their personal information; or*
- *someone else for information about the individual (eg DET asks another agency)*

What you need to know

- *must take the steps that are reasonable to ensure DET is collecting only relevant, up to date, complete information*
- *can't unreasonably intrude of the person's affairs*

Tips

- *collect personal information from the relevant individual wherever possible (ie rather than another agency)*
- *note the date on which you collect the information (helps later when you need to assess its currency)*
- *unreasonably intrusive = asking questions about sensitive personal affairs, collecting the information in ways that involve touching the person, observing bodily functions, invading their private property, repeatedly and unnecessarily asking for the same information*

Notes on collection:

- **(automated collection)** we can collect personal information automatically through anti-virus software, internet use logs, database access logs, cookies or email scanning
 - collection or monitoring needs to fulfil a legitimate purpose that relates to DET's functions or activities
 - personal information collected should be kept to a minimum to achieve that purpose
 - the least intrusive method of collection or monitoring should be adopted
 - collection notice could be included in the message displayed when staff log-on to the system
- **(online disclosure)** if we collect personal information intending to include it in a generally available publication, especially where it will be online, we need to make this clear in the privacy notice
 - generally available publications and online publishing is a disclosure to the *world at large* and there are few limitations or controls that can be applied
 - if possible, offer individuals the chance to restrict

IPP 4 – Storage and security of personal information

What you need to know

- ensure that you apply appropriate protections to personal information in your control
- protect against loss, unauthorised access, use, modification, disclosure or other misuse

If you control

- extensive amounts of personal information
- information about vulnerable persons (eg students)
- sensitive information (eg racial / ethnic origin, political opinions, sexual orientation, criminal records)
- information that carries a risk of identity theft or financial harm
- information that carries a risk of harm to a person's life, safety, liberty, reputation or livelihood

→ take extra care, review IPP 4 and develop strategies to ensure you have appropriate protections in place

Safeguards

- limit access to those people with a need to know
- use audit logs to deter and detect security breaches
- secure the places where information is physically stored
- secure data during and after transmission

Giving personal information to contractors

If necessary to do so – take all reasonable steps to ensure the contractor doesn't use or disclose the personal information in an unauthorised way

If you think security of personal information has been compromised

Talk to your manager without delay. Seek advice from LALB on gravity of breach.

May need to notify the relevant individual.

Other important resources

- Information Standard 18 – Information Security

Disclaimer: The information in this publication is provided for general purposes only. It is not to be relied on as a substitute for legal advice. Formal legal advice should be obtained for particular matters. Please send all requests for advice to the Executive Director of the Legal and Administrative Law Branch.

IPP 5, 6 and 7 – Access and amendment

What you need to know

IPP 5 requires DET to:

- *make people aware of the kinds of personal information it holds and why*
- *tell people how they can get access to it*
- *how they can seek to have it amended if they believe it's not accurate, grant individuals access to and amendment of documents containing their personal information*

Privacy policies and plans

DET will do this through a clearly expressed new policy detailing how DET manages personal information and how to make a privacy complaint.

DET's privacy plan will be updated

IPP 6 and 7

DET discharges the obligations in these principles by complying with Chapter 3 of the IP Act

Disclaimer: The information in this publication is provided for general purposes only. It is not to be relied on as a substitute for legal advice. Formal legal advice should be obtained for particular matters. Please send all requests for advice to the Executive Director of the Legal and Administrative Law Branch.

IPP 8, 9, 10 – Principles about USE

What you need to know

- IPP 8 is about – ensuring information is accurate, complete and up-to-date before using it
- IPP 9 is about – using only the parts of the personal information directly relevant to fulfilling the particular purpose
- IPP 10 is about – limits on use of personal information. Can only use personal information for the purpose for which it was obtained unless an exemption applies.

Use means

Searching the information and transferring the information within the agency

- eg where personal enrolment information collected by Student Services is to be transferred to Schooling Innovation – need to satisfy yourself that the relevant person has agreed / it's for a purpose directly related to enrolment

Can't just transfer personal information across the agency at will

IPP 10

An agency must not use personal information for a purpose other than the particular purpose for which the information was obtained unless one of the exemptions applies:

- (a) prior agreement (can be express or implied)
- (b) serious threat to health, safety or welfare
- (c) required or authorised under a law
- (d) law enforcement
- (e) directly related purpose
- (f) research and statistics

(see the full text in IPP document)

IPP 11 – Principles about DISCLOSURE

What you need to know

- *IPP 11 is about – limits on disclosing personal information.*
- *must take reasonable steps to ensure that anyone to whom you properly disclose personal information (eg contractors), will not use it or disclose it for another purpose*

Disclosure means

Ceasing to have control over the recipient in relation to who will know the personal information in the future

IPP 11

An agency must not disclose personal information to an entity (other than the individual the subject of the personal information) unless one of the exemptions applies:

- (a) likely awareness*
- (b) prior agreement*
- (c) serious threat to health, safety or welfare*
- (d) required or authorised under a law*
- (e) law enforcement*
- (f) research and statistics*

Using personal information for marketing

- *where DET plans to disclose personal information to another entity, and*
- *that other entity can use it for commercial purposes involving marketing anything to the individual*
- *disclosure is only allowed where DET is satisfied on reasonable grounds that the other entity will comply with IPP 11(4)(a)-(e) as well as IPP 11(3)*

Disclaimer: The information in this publication is provided for general purposes only. It is not to be relied on as a substitute for legal advice. Formal legal advice should be obtained for particular matters. Please send all requests for advice to the Executive Director of the Legal and Administrative Law Branch.

