

RIGHT TO INFORMATION AND PRIVACY POLICY

VERSION: 2.1 | OCTOBER 2019

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DOCUMENT CONTROL

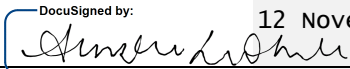

DOCUMENT INFORMATION

DOCUMENT OWNER	CHIEF INFORMATION OFFICER
File name	Right to Information and Privacy Policy
Review date	Annual from final approval


DOCUMENT HISTORY

VERSION	ISSUE DATE	CHANGES
0.01	February 2010	Created
0.02	August 2011	Reviewed
1.0	December 2013	Updated for change to QBCC
2.0	04 May 2018	Reviewed
2.1	30 October 2019	Reviewed, updated and approved

DOCUMENT REVIEW

ROLE	NAME	SIGNATURE	DATE
Manager IT Planning	Ainslie White	 DocuSigned by: 88A3FB7FE87545E...	12 November 2019 12:37:52
Manager RTI & IP	Joan Middleton	 DocuSigned by: 5474F7D209A3499...	11 November 2019 15:22:57

DOCUMENT APPROVALS

ROLE	NAME	SIGNATURE	DATE
Chief Information Officer	David Black	 DocuSigned by: B72CB436E95040B...	11 November 2019 18:41:13

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POLICY STATEMENT

PURPOSE

The purpose of this policy is to outline Queensland Building and Construction Commission's (QBCC's) obligations to the members of the public when carrying out its functions and activities in accordance with the *Right to Information Act 2009 Act* and *Information Privacy Act 2009*. This includes ensuring documents are made available about our functions and operations that are not contrary to public interest. There is also a requirement to ensure personal information is collected, stored, used and disclosed in accordance with the *Information Privacy Act 2009*.

POLICY

The objectives of this policy are to:

- Ensure employees are aware of the Right to Information and Information Privacy legislation and their obligations when carrying out their responsibilities.
- Ensure the appropriateness of QBCC procedures, policies and guidelines, including the pro-disclosure bias and giving access to information under administrative access.
- Ensure employees are aware of their obligations in accordance with the Information Privacy Legislation and in particular the Information Privacy Principles in the collection, storage and security, access and amendment, use and disclosure of personal information.

SCOPE

This policy applies to all QBCC employees, including casual, temporary and contract staff in accordance with the requirements of the *Right to Information Act 2009 (RTI ACT)*, *Information Privacy Act 2009 (IP ACT)*, *Right to Information Regulation 2009* and *Information Privacy Regulation 2009*.

GUIDING PRINCIPLES FOR USERS

- Parliament's approach to government held information is to emphasise and promote the right to this information and it should be released administratively as a matter of course unless it is on balance contrary to public interest to do so. This includes making information available about the structure, decision-making processes, public participation through boards, councils or committees and policy documents that are not contrary to public interest.
- The RTI Act and IP Act have implications for all QBCC employees (including permanent, temporary and casual) because they are all involved in the process of creating and managing records, and may also be required to search for documents pursuant to an RTI Act or IP Act application.
- QBCC has obligations to provide safeguards for the handling of personal information in accordance with the Information Privacy Principles (IPP's) and to allow access and amendment of an individual's personal information in accordance with the IP Act.
- The IP Act allows noncompliance with particular IPP's in relation to certain publications, special provision for QBCC law enforcement functions and disclosing personal information relevant to the Minister's portfolio responsibilities.

- QBCC employees need to be mindful that an individual can submit a privacy complaint to QBCC, if they consider their privacy has been breached by our agency. Therefore if they consider they may have breached an individual's privacy they need to advise their Manager and the RTI and Privacy unit as soon as possible for steps to take to mitigate the risk.
- Always be aware of any conflict of interest or perceived conflict when dealing with customers' information. If there is concern let your manager know so that another officer can be assigned to action the matter.

GUIDING PRINCIPLES FOR ADMINISTRATORS

As Principal Officer, the QBCC Commissioner has delegated the power to deal with access and amendment applications and RTI and IP internal reviews under the RTI and IP act to certain employees. The classifications for these are contained in the QBCC Delegation Manual.

- Administrators must ensure they have the appropriate delegation and training to process access or amendment applications.
- Have extensive knowledge of the preamble of the RTI Act including pro disclosure bias to enhance accountability of our agency and keeping the community informed of our operations unless the information is considered contrary to the public interest.
- Providing safeguards for the handling of personal information in the public sector environment and to allow access and amendment of personal information.
- Always be aware of any conflict of interest or perceived conflict when dealing with customers' information. If there is concern let your manager know so that another officer can be assigned to action the matter.

RESPONSIBILITIES

The RTI and Privacy unit Manager and Officers are responsible for taking all reasonable steps to ensure the QBCC meets its responsibilities under the RTI and IP legislation including:

- Processing RTI and IP access applications
- Processing amendment applications,
- Processing Internal RTI and IP reviews
- Collaborating with our regulator the OIC in relation to external reviews, audits etc.
- Releasing information administratively unless on balance it is contrary to public,
- Ensuring collection, storage and security, access and amendment, use and disclosure of personal information is carried out in accordance with the IPP's and the IP act,
- Giving advice to internal and external customers in accordance with legislation, policies and guidelines,
- Providing advice and actioning possible privacy breaches and processing Privacy complaints,
- Promoting 'Privacy by Design' and providing Privacy Notices for forms etc.
- Reporting in accordance with the legislation and Queensland Government protocols
- Providing training on RTI and IP matters relevant to QBCC

COMPLIANCE AND DISCIPLINARY ACTION

- A person from our agency must not give a direction, either orally or in writing to a person delegated to make a decision under the RTI or IP Acts if that person does not agree with that decision. (Maximum penalty-100 penalty points)
- An officer must not deliberately give false information to the Office of the Information Commissioner (OIC) or fail to produce documents or attend proceedings without a reasonable excuse. (Maximum penalty-100 penalty points)
- If a delegated officer makes a decision with a genuine belief that access was required or permitted under either of the Acts, no action for defamation or breach of confidence lies against the agency or the officer.
- If the Information Commissioner at the completion of an external review is of the opinion a QBCC officer has committed a breach of duty of misconduct in the administration of the RTI or IP Act, the Commissioner must bring the evidence to the notice of the QBCC Commissioner; or if the decision was made by the Commissioner who is the principal officer of our agency, it would be to the notice of our Minister.
- If a privacy complainant is not satisfied with a response to an alleged breach by our agency and mediation with the OIC is not successful in resolving the complaint, the OIC must refer the privacy complaint to QCAT. The maximum compensation that can be awarded to a complainant in Queensland, to compensate for loss or damage suffered is \$100,000 plus costs. This is against QBCC not the officer who has committed the breach.

RELATED DOCUMENTS

- Right to Information and Privacy Procedure
- Right to Information and Information Privacy Access Form and Information Privacy Amendment Form
- Right to Information and Information Privacy Internal review forms
- Privacy complaint form
- Administrative Access Policy and Administrative Access Guidelines

