

## **INFORMATION PRIVACY PLAN**

### **Introduction**

The PLA understands that individuals are concerned about their privacy and the confidentiality and security of any information provided. The PLA is committed to protecting the privacy of its clients.

The *Information Privacy Act 2009* provides for the protection of personal information collected and held by Queensland Government agencies, and provides rules for what those agencies must and may do with personal information. It is designed to protect all forms of personal information from being lost, misused or inappropriately modified or disclosed.

The PLA necessarily collects personal information from clients to perform key functions in accordance with the *Prostitution Act 1999*, such as:

- deciding brothel licence applications
- deciding approved manager's certificate applications
- monitoring the provision of prostitution through licensed brothels
- conducting disciplinary inquiries in relation to licensees and approved managers
- receiving complaints about prostitution.

### **What is personal information?**

'Personal information' is defined by s. 12 of the Information Privacy Act to mean 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.

Examples include a person's name and address, telephone number, email address, signature, bank account details, date and place of birth, drivers licence number, financial records, criminal records, family arrangements, and physical characteristics such as height, eye colour, and tattoos.

### **Purpose**

The purpose of the PLA privacy plan is to:

- specify the types of personal information held by the PLA
- detail what rights a person has if they believe that the PLA has breached their privacy

- outline how individuals may seek to access their personal information held by the PLA
- detail how the PLA will implement its privacy plan
- guide officers of the PLA in dealing with personal information.

## **The Information Privacy Principles**

Under the Information Privacy Act, the PLA must comply with 11 Information Privacy Principles (IPPs) dealing with:

- collection of personal information
- storage and security of personal information
- providing information about personal information held by an agency
- access to and amendment of documents containing personal information
- accuracy and relevance of personal information
- use of personal information
- disclosure of personal information.

IPPs 1, 2 and 3 deal with what personal information may be collected, the way it is collected and what notices must be given to the person from whom the information is collected.

IPP 4 deals with requirements for ensuring that personal information is stored securely and protected from loss, unauthorised access, use, modification, disclosure or misuse.

IPPs 5, 6 and 7 deal with individuals obtaining information about whether an agency has control of any documents containing their personal information, how individuals can obtain access to those documents, and the amendment of documents containing personal information.

IPPs 8, 9, 10 and 11 deal with how personal information may be used and disclosed.

The full text of the IPPs is set out at [Appendix A](#).

## **Other legislation**

The IPPs do not apply where the authority to collect, use, store and disclose personal information is otherwise authorised under legislation.

The PLA operates under the *Prostitution Act 1999*. Relevant sections of the Prostitution Act include ss. 10, 11, 13, 14, 15, 17, 20, 35, 36, 38, 39, 40, 42, 101, 111, and 133.

A copy of the Prostitution Act may be downloaded from [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au).

In particular, under s. 133 of the Prostitution Act, an official must not disclose information obtained by the official in the administration of the Act. An 'official' means the Minister, the Police Commissioner, a member of the PLA, the Executive Director or a member of the staff of the Office of the PLA, or an authorised officer of a

relevant local government. However, s. 133 does not apply to a disclosure of information:

- with the consent of the person from whom the information was obtained
- in the administration of the Prostitution Act
- to the Minister
- to the Police Commissioner
- with the approval of the PLA, to a person administering a corresponding law
- in a proceeding under the Prostitution Act or a report of the proceeding
- in a proceeding before a court in which the information is relevant to the issue before the court
- if the information would normally be made available to any member of the public on request.

### **Responsibility for privacy**

The overall responsibility for privacy at the PLA rests with the Executive Director. All agency staff and members of the PLA are responsible for ensuring that they comply with the Information Privacy Act. There are strict security procedures in place for the management of information held by the Office of the PLA. Employees are given access only to information which is relevant to their duties.

### **Public registers maintained by the PLA**

The PLA maintains only one public register.

In accordance with s. 111 of the Prostitution Act, the PLA maintains a licence and certificate register containing the following information:

- the name of each holder of a licence or certificate
- the granting, renewal, surrender, suspension or cancellation of a licence or of a certificate
- the address of the premises at which the holder of a licence may operate the brothel under the licence
- the addresses of the licensed brothels for which the holder of a certificate is authorised to be an approved manager
- all entries into licensed brothels by police officers.

The register may be inspected at the Office of the PLA, during office hours, and a copy of an entry in it obtained on payment of the fee specified in the *Prostitution Regulation 2000*.

The Executive Director of the PLA may correct an error or omission in the register by inserting, amending or omitting an entry. The Executive Director may make a correction on the application of any person.

## **Types of personal information held by the PLA**

### ***Applications for licences and certificates***

A large range of information is collected from applicants for a brothel licence or approved manager's certificate for the PLA to determine if they are a suitable person to be granted a licence or certificate. Similarly, a range of information is collected through the annual return process in order to determine the on-going suitability of licensees to hold a licence and approved managers to hold a certificate. Information sought relates to ss. 6, 7, 8, 9, 10, 13, 15, 16, 17, 34, 35, 38, 40, 41, and 42 of the Prostitution Act. This information may also be used to support the PLA's disciplinary processes under ss. 26, 27, 52, and 53 of the Prostitution Act.

Applicants are required to present the PLA with a range of personal information, including: name; current and previous residential addresses; date of birth; current and previous employment; physical description; citizenship; criminal history; details of family and business associates; business involvement; involvement in prostitution; details of any licences or certificates held; memberships of professional bodies or associations; and financial details such as bankruptcy, tax returns, assets, loans, debts, investments, and sources of funds over the past five years.

In addition to information provided by applicants, the PLA seeks information from other agencies and financial institutions. For this purpose, applicants are required to sign an authority for release of information. Applicants' personal information is made available to the Queensland Police Service pursuant to ss. 14 and 39 of the Prostitution Act. In accordance with ss. 15 and 40 of the Prostitution Act, in considering an application, the PLA is authorised to conduct the inquiries it considers appropriate. The names and dates of birth of applicants and their associates are disclosed to the Office of Liquor, Gaming and Racing and to the Victorian Business Licensing Authority for relevant checks. The names of all companies with which applicants are associated are disclosed to the Office of Fair Trading and the Australian Securities and Investments Commission in the course of enquiries.

Access to applicant records is restricted to the members of the PLA, the Executive Director, and staff involved in licence and certificate processing.

### ***Complaints about prostitution***

It is a legislative function under s. 101(f) of the Prostitution Act for the PLA to receive complaints in respect of prostitution. Complaints may, for example, be related to brothel operations, prostitution advertising or a suspected illegal prostitution enterprise.

Complaints may include personal information such as name, address, telephone number, occupation, marital status, sexual proclivities, personal opinions, grievances and allegations.

In seeking to resolve complaints, the PLA may forward details of the complaints to other agencies, such as the Queensland Police Service, or to brothel licensees and approved managers.

Complainants to the PLA are entitled to anonymity. In circumstances where an individual has provided information capable of rendering their identity, such as their name, address and telephone number, the PLA will only disclose those details to a

third party with that person's consent. Otherwise, information may be provided to a third party in such a way that the complainant is not capable of being identified.

In situations where a complaint is more appropriately within the jurisdiction of another entity, such as the Queensland Anti-Discrimination Commission, the Office of Fair Trading, the Crime and Misconduct Commission or the Queensland Ombudsman, the complainant may be advised to make a complaint directly to that agency or their consent sought for the PLA to refer their complaint to that agency.

PLA staff involved in complaint taking and the resolution of complaints have access to complaint information.

### ***Ministerial correspondence***

Ministerial correspondence, from the public or other government agencies on matters related to prostitution may be referred to the PLA for consideration and preparation of advice and responses.

Content may include names, addresses, personal opinions and allegations, complaints and grievances, and information about the person's occupation and personal circumstances.

Members of the PLA, the Executive Director, and staff involved in the preparation of responses have access to this personal information.

### ***Staff information***

Staff information is collected and held under the *Public Service Act 2008* and the *Public Service Regulation 2008* and is used to administer the staffing, financial and human resources processes of the Office of the PLA.

Personal information collected about staff includes date of birth, current and previous residential addresses, name and contact details of next of kin, criminal history, information about family members, previous employment, qualifications, membership of clubs and associations, information about travel or residence overseas, and some financial information. Records may also contain information concerning accidents and injuries, compensation, rehabilitation, complaints grievances, and discipline matters.

Access to records containing the personal information of staff is granted to the Executive Director, the members of the PLA, staff involved in processing human resources matters and the direct supervisor of the employee on an 'as needs' basis. Under s. 14 of the Public Service Regulation, staff members are entitled to inspect their employee record and make copies.

### ***Storage and record keeping***

The PLA keeps personal information in both hard copy and electronic formats. Hard copy information is retained in locked filing cabinets at the PLA. Electronic information is kept in a password protected environment. Appropriate storage and security arrangements apply, depending on the sensitivity of the information. PLA staff have access only to those documents which are relevant to their duties.

The disposal of the PLA's records is governed by the *Public Records Act 2002*. A record may not be disposed of without authority from the State Archivist or other legal

authority. The PLA's records are retained for variable periods, in accordance with the Public Records Act, the *General Disposal and Retention Schedule for Administrative Records* issued by Queensland State Archives and the *PLA Records Disposal and Retention Schedule*, as approved by Queensland State Archives.

## **Contracts and outsourcing arrangements**

The PLA enters into a limited number of contracts with external bodies for the supply of goods and services. These may require the disclosure of personal information to third parties or the collection of personal information by third parties on behalf of the PLA.

The Information Privacy Act requires personal information to be managed in accordance with the IPPs. Any outsourcing arrangements, contracts and licences entered into after 1 July 2009 must comply with these principles. Existing arrangements will remain in force and comply with IS42.

## **Breaches of privacy**

Individuals have the right to expect that the PLA will meet their privacy obligations and protect their personal information. Where a person believes that the Authority has breached the IPPs in relation to their personal information, they may make a privacy complaint.

The PLA will deal with privacy complaints in a timely and responsive manner. A privacy complaint must:

1. Be in writing to the PLA Privacy Officer
2. Provide a contact address to which notices can be forwarded
3. Outline the basis for the complaint in as much detail as possible.

Complaints should be made as soon as possible after becoming aware of the suspected breach. They should be made to the PLA in the first instance and the PLA must be given reasonable time (45 days) to respond to the complaint. The complaint will be referred to the compliance section for investigation and the Privacy Officer will ensure the complaint is appropriately finalised.

If a complainant has not received a decision on the complaint within 45 days, or is not satisfied with the decision, they may complain to the Information Commissioner. The complaint will then be mediated, if deemed appropriate, or may be referred to the Queensland Civil and Administrative Tribunal (QCAT).

## **Access and amendment of personal information**

Under Chapter 3 of the *Information Privacy Act 2009*, individuals have the right to apply for:

- access to a document of an agency which contains the personal information of the applicant
- the amendment of documents of an agency to the extent they contain the personal information of the applicant.

However, access to and amendment of documents containing an individual's personal information is at the discretion of the PLA. Due to the interrelationship of s.

13 of the Information Privacy Act, ss. 12 and 11 of the *Right to Information Act 1999*, and Schedule 1 of the Right to Information Act, a document created, or received, by the PLA for the Prostitution Act is exempt from Chapter 3 (disclosure and amendment) of the Information Privacy Act.

Applications to the PLA for access to a document must:

1. Be in writing
2. Give sufficient information about the document to enable the document to be identified
3. State an address to which notices may be sent
4. Provide evidence of the applicant's identity.

An individual may apply to amend a document containing their personal information if they believe that the personal information is:

- inaccurate
- incomplete
- out of date
- misleading.

### **External complaint options**

If an individual is dissatisfied with a decision of the PLA in respect to privacy, they may complain to the Information Commissioner.

## INFORMATION PRIVACY PRINCIPLES

### IPP 1--Collection of personal information (lawful and fair)

- (1) An agency must not collect personal information for inclusion in a document or generally available publication unless--
- (a) the information is collected for a lawful purpose directly related to a function or activity of the agency; and
  - (b) the collection of the information is necessary to fulfil the purpose or is directly related to fulfilling the purpose.
- (2) An agency must not collect personal information in a way that is unfair or unlawful.

### IPP 2--Collection of personal information (requested from individual)

- (1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.
- (2) However, this section applies only if the agency asks the individual the subject of the personal information for either--
- (a) the personal information; or
  - (b) information of a type that would include the personal information.
- (3) The agency must take all reasonable steps to ensure that the individual is generally aware of--
- (a) the purpose of the collection; and
  - (b) if the collection of the personal information is authorised or required under a law--
    - (i) the fact that the collection of the information is authorised or required under a law; and
    - (ii) the law authorising or requiring the collection; and
  - (c) if it is the agency's usual practice to disclose personal information of the type collected to any entity (the first entity)--the identity of the first entity; and
  - (d) if the agency is aware that it is the usual practice of the first entity to pass on information of the type collected to another entity (the second entity)--the identity of the second entity.
- (4) The agency must take the reasonable steps required under subsection (3)--
- (a) if practicable--before the personal information is collected; or
  - (b) otherwise--as soon as practicable after the personal information is collected.
- (5) However, the agency is not required to act under subsection (3) if--
- (a) the personal information is collected in the context of the delivery of an emergency service; and
  - (b) the agency reasonably believes there would be little practical benefit to the individual in complying with subsection (3) in the circumstances; and
  - (c) the individual would not reasonably expect to be made aware of the matters mentioned in subsection (3).

### **IPP 3--Collection of personal information (relevance etc.)**

(1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.

(2) However, this section applies to personal information only if the agency asks for the personal information from any person.

(3) The agency must take all reasonable steps to ensure that--

(a) the personal information collected is--

- (i) relevant to the purpose for which it is collected; and
- (ii) complete and up to date; and

(b) the extent to which personal information is collected from the individual the subject of it, and the way personal information is collected, are not an unreasonable intrusion into the personal affairs of the individual.

### **IPP 4--Storage and security of personal information**

(1) An agency having control of a document containing personal information must ensure that--

(a) the document is protected against--

- (i) loss; and
- (ii) unauthorised access, use, modification or disclosure; and
- (iii) any other misuse; and

(b) if it is necessary for the document to be given to a person in connection with the provision of a service to the agency, the agency takes all reasonable steps to prevent unauthorised use or disclosure of the personal information by the person.

(2) Protection under subsection (1) must include the security safeguards adequate to provide the level of protection that can reasonably be expected to be provided.

### **IPP 5--Providing information about documents containing personal information**

(1) An agency having control of documents containing personal information must take all reasonable steps to ensure that a person can find out--

(a) whether the agency has control of any documents containing personal information; and

(b) the type of personal information contained in the documents; and

(c) the main purposes for which personal information included in the documents is used; and

(d) what an individual should do to obtain access to a document containing personal information about the individual.

(2) An agency is not required to give a person information under subsection (1) if, under an access law, the agency is authorised or required to refuse to give that information to the person.

### **IPP 6--Access to documents containing personal information**

(1) An agency having control of a document containing personal information must give an individual the subject of the personal information access to the document if the individual asks for access.

(2) An agency is not required to give an individual access to a document under subsection (1) if--

(a) the agency is authorised or required under an access law to refuse to give the access to the individual; or

(b) the document is expressly excluded from the operation of an access law.

#### **IPP 7--Amendment of documents containing personal information**

(1) An agency having control of a document containing personal information must take all reasonable steps, including by the making of an appropriate amendment, to ensure the personal information--

(a) is accurate; and

(b) having regard to the purpose for which it was collected or is to be used and to any purpose directly related to fulfilling the purpose, is relevant, complete, up to date and not misleading.

(2) Subsection (1) applies subject to any limitation in a law of the State providing for the amendment of personal information held by the agency.

(3) Subsection (4) applies if--

(a) an agency considers it is not required to amend personal information included in a document under the agency's control in a way asked for by the individual the subject of the personal information; and

(b) no decision or recommendation to the effect that the document should be amended wholly or partly in the way asked for has been made under a law mentioned in subsection (2).

(4) The agency must, if the individual asks, take all reasonable steps to attach to the document any statement provided by the individual of the amendment asked for.

#### **IPP 8--Checking of accuracy etc. of personal information before use by agency**

Before an agency uses personal information contained in a document under its control, the agency must take all reasonable steps to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, complete and up to date.

#### **IPP 9--Use of personal information only for relevant purpose**

(1) This section applies if an agency having control of a document containing personal information proposes to use the information for a particular purpose.

(2) The agency must use only the parts of the personal information that are directly relevant to fulfilling the particular purpose.

#### **IPP 10--Limits on use of personal information**

(1) An agency having control of a document containing personal information that was obtained for a particular purpose must not use the information for another purpose unless--

(a) the individual the subject of the personal information has expressly or impliedly agreed to the use of the information for the other purpose; or

(b) the agency is satisfied on reasonable grounds that use of the 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; or

(c) use of the information for the other purpose is authorised or required under a law; or

- (d) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary for 1 or more of the following by or for a law enforcement agency--
  - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
  - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
  - (iii) the protection of the public revenue;
  - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
  - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
- (e) the other purpose is directly related to the purpose for which the information was obtained; or
- (f) all of the following apply--
  - (i) the use is necessary for research, or the compilation or analysis of statistics, in the public interest;
  - (ii) the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual the subject of the personal information;
  - (iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use.

(2) If the agency uses the personal information under subsection (1)(d), the agency must include with the document a note of the use.

#### **IPP 11--Limits on disclosure**

- (1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the relevant entity), other than the individual the subject of the personal information, unless--
- (a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or
  - (b) the individual has expressly or impliedly agreed to the disclosure; or
  - (c) the agency is satisfied on reasonable grounds that the disclosure 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; or
  - (d) the disclosure is authorised or required under a law; or
  - (e) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency--
    - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
    - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
    - (iii) the protection of the public revenue;
    - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
    - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
  - (f) all of the following apply--
    - (i) the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;
    - (ii) the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;
    - (iii) it is not practicable to obtain the express or implied agreement of the individual before the disclosure;

(iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

(2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.

(3) If the agency discloses personal information under subsection (1), it must take all reasonable steps to ensure that the relevant entity will not use or disclose the information for a purpose other than the purpose for which the information was disclosed to the agency.

(4) The agency may disclose the personal information under subsection (1) if the information may be used for a commercial purpose involving the relevant entity's marketing of anything to the individual only if, without limiting subsection (3), the agency is satisfied on reasonable grounds that--

(a) it is impracticable for the relevant entity to seek the consent of the individual before the personal information is used for the purposes of the marketing; and

(b) the relevant entity will not charge the individual for giving effect to a request from the individual to the entity that the individual not receive any marketing communications; and

(c) the individual has not made a request mentioned in paragraph (b); and

(d) in each marketing communication with the individual, the relevant entity will draw to the individual's attention, or prominently display a notice, that the individual may ask not to receive any further marketing communications; and

(e) each written marketing communication from the relevant entity to the individual, up to and including the communication that involves the use, will state the relevant entity's business address and telephone number and, if the communication with the individual is made by fax, or other electronic means, a number or address at which the relevant entity can be directly contacted electronically.