

PRIVACY PLAN

Introduction

This document informs the community about:

- the responsibilities of the Prostitution Licensing Authority (PLA) in relation to the collection and handling of personal information of individuals
- the types of information the PLA holds about individuals
- the main purposes for which the PLA collects and uses personal information
- how personal information is collected, used and stored by the PLA
- what to do if a person would like to amend or access a document containing their own personal information held by the PLA
- how a member of the community may make a complaint about the way in which the PLA has dealt with their personal information.

The *Information Privacy Act 2009* (IP Act) governs the fair and lawful collection, use, storage and disclosure of personal information in the possession and control of Queensland Government agencies. Schedule 3 of the IP Act contains 11 Information Privacy Principles (IPPs) which specify how personal information is to be collected, stored, secured, accessed, amended, used, and disclosed by agencies. The Act may be downloaded from: www.legislation.qld.gov.au/.

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.

IPP4 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.

‘Personal information’ is defined by s. 12 of the IP Act as: information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

What does the PLA do?

The PLA is a statutory authority responsible for the administration of the *Prostitution Act 1999*, which establishes a licensing framework for brothels in Queensland. The PLA's functions are provided by s. 101 of the Prostitution Act. For the purpose of this Privacy Plan, the most relevant functions include:

- deciding applications for brothel licences and approved managers' certificates
- monitoring the provision of prostitution through licensed brothels
- conducting disciplinary inquiries in relation to licensees and approved managers
- receiving complaints about prostitution
- informing relevant government agencies about possible offences detected in carrying out its functions.

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 IP Act. There are strict security procedures in place for the management of information held by the Office of the PLA. Staff are given access only to information which is relevant to their duties.

The Prostitution Act

The PLA operates under the Prostitution Act, which provides for the collection, use, disclosure, and confidentiality of personal information. This includes the personal information of brothel licence applicants and approved manager's certificate applicants, of the business partners of licence applicants, of the owners of brothel premises, and the associates of licence and certificate applicants. The PLA must give to the Queensland Police Commissioner any particulars it considers relevant for each application for a licence or certificate. In considering an application, the PLA may conduct the inquiries it considers appropriate and seek advice and information on the application from any other entity it considers appropriate. Relevant sections of the Prostitution Act include ss. 10,11, 13, 14, 15, 17, 20, 35, 36, 38, 39, 40 and 42.

The PLA takes reasonable steps to ensure that the information is accurate, complete, and up to date. Applicants for a licence and certificate and licensees and approved managers are responsible for advising the PLA of changes in information previously given for the application (ss. 11, 20, 36, and 45 of the Prostitution Act). Also, a person must not, in connection with the Act, state anything to the PLA, or give the PLA a document containing information, that the person knows is false or misleading (ss. 97 and 98).

As required by s. 111 of the Prostitution Act, the PLA maintains a public licence and certificate register containing the following information:

- the name of each holder of a licence or certificate
- the granting, giving, renewal, surrender, suspension or cancellation of a licence or 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 during office hours at the Office of the PLA, and a copy of an entry in it obtained on payment of the fee specified in the *Prostitution Regulation 2014*.

The Executive Director 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.

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 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.

Types of personal information the PLA collects and how it is handled

The PLA collects personal information to carry out its functions under the Prostitution Act. Examples of personal information the PLA may collect includes a person's name and address, telephone number, email address, signature, bank account details, date and place of birth, identity documents, financial records, criminal history, family members, physical characteristics, and photographs.

Applications for brothel licences and approved managers' certificates

The PLA collects a large amount of personal information from applicants for a brothel licence or an approved manager's certificate to decide if they are suitable persons to be granted a licence or certificate. It also collects a range of information through the annual return process to determine if licensees and approved managers remain suitable for involvement in the licensed sector of the sex industry. Information collected relates to ss. 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 34, 35, 38, 39, 40, 41, 42, 43, and 44 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.

Personal information collected by the PLA may include: a photograph of the applicant; name; date of birth; gender; place of birth; citizenship details; current and previous residential addresses; telephone number and email address; occupation and employer; copy of passport; copy of driver's licence; details of criminal convictions; business information; financial details such as bank statements, loans and other liabilities; assets and investments; previous involvement in prostitution; details of referees; details of family and business associates; and details of the owner of the brothel premises.

Under ss. 15 and 40 of the Prostitution Act, in considering an application for a licence or certificate, the PLA may conduct the inquiries it considers appropriate and seek advice and information on the application from any other entity it considers appropriate. For this purpose, applicants must complete an Authority for Release of Information. The PLA uses an applicant's personal information to make relevant checks with the Queensland Office of Liquor and Gaming Regulation, the Victorian Business Licensing Authority, the Australian Securities and Investments Commission, and may also make inquiries with financial institutions. The personal information of applicants is also given to the Queensland Police Service, in accordance with ss. 14 and 39 of the Prostitution Act.

All application forms include a privacy notice about the collection and protection of personal information.

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

Audits and inspections of licensed brothels

Consistent with the function of the PLA under s. 101(c) of monitoring the provision of prostitution through licensed brothels, PLA compliance officers conduct audits and inspections of licensed brothels.

Personal information may be collected in the course of audits and inspections of brothels, as evidence of suspected breaches of regulatory compliance or offences under the Prostitution Act or Prostitution Regulation. This information may include names of licensees, managers, and sex workers; dates of birth; contact details; and personal opinions and allegations.

Consistent with its function under s. 101(i) of informing relevant government agencies about possible offences detected while carrying out its functions, information about suspected offences under the Prostitution Act or the Prostitution Regulation may be referred to the Queensland Police Service.

This information may also be used for the conduct of disciplinary inquiries by the PLA.

Complaints about prostitution

Two functions of the PLA under the Prostitution Act are to receive complaints about prostitution (s. 101(f)) and to inform relevant government agencies about possible offences

detected while carrying out its functions (s. 101(i)). For example, complaints may be related to brothel operations, suspected unlawful prostitution or prostitution advertising.

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

Complaint information may be used by the PLA during the conduct of disciplinary inquiries.

Complaints alleging unlawful activities at licensed brothels or about unlawful prostitution operations, may be referred to the Queensland Police Service for investigation and action.

If complaints are more appropriately in the jurisdiction of another agency, such as the Queensland Human Rights Commission, or the Crime and Corruption Commission, or Workplace Health and Safety Queensland, 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, unless disclosure is required or authorised under law or 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. In circumstances where a person requests anonymity, information may be provided to a third party in such a way that the complainant is not capable of being identified.

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

Inquiries and other correspondence

The PLA may receive inquiries and other correspondence related to its functions. For example, an email from a person interested in opening a licensed brothel or inquiring about regulatory compliance. Ministerial correspondence may also be referred to the PLA for consideration and preparation of advice and response.

Content may include names, residential and/or postal address, email address, telephone number, personal opinions and allegations, complaints and grievances, and information about the person's occupation, associations and personal circumstances.

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 2018* and is used to administer the staffing, financial and human resource processes of the Office of the PLA.

Personal information collected may include date of birth, residential address, email, telephone number, name and contact details of next of kin, previous employment, qualifications, and criminal history. Records may also contain information concerning accidents and injuries, compensation, rehabilitation, complaints, grievances, and disciplinary matters.

Under s. 19 of the Public Service Regulation, a staff member may, on request, inspect their employee record or take an extract from, or copy, the record.

Access to records containing the personal information of staff is granted to the Executive Director, members of the PLA, staff involved in processing human resources matters and the direct supervisor of the employee.

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 Office of 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.

Records containing personal information are disposed of in accordance with s. 26 of the *Public Records Act 2002*, the *General Retention and Disposal Schedule* issued by Queensland State Archives, and the *PLA Records Disposal and Retention Schedule*, as approved by Queensland State Archives.

Access and amendment of personal information

Under Chapter 3 of the IP Act, a person has the right to apply for:

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

A person may apply to amend a document containing their personal information if they believe that information is:

- inaccurate
- incomplete
- out of date
- misleading.

However, a person's access to and amendment of documents containing their personal information is at the discretion of the PLA. This is because of the interrelationship of s. 13 of the IP Act and ss. 11 and 12 and Schedule 1 of the *Right to Information Act 2009*, so that a document created, or received, by the PLA for the Prostitution Act is exempt from Chapter 3 (disclosure and amendment) of the IP Act.

Applications to the PLA for access to a document must:

1. be in writing to the Privacy Officer (at GPO Box 3196, Brisbane, Qld, 4001 or by email to plaadmin@justice.qld.gov.au)
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.

Breaches of privacy

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

Complaints should be made as soon as possible after becoming aware of the suspected breach. They should be to the PLA in the first instance and the PLA must be given reasonable time (45 days) to respond to the complaint. The PLA will deal with privacy complaints in a timely and responsive manner. A privacy complaint must:

1. be in writing to the Privacy Officer (at GPO Box 3196, Brisbane, Qld, 4001 or by email to plaadmin@justice.qld.gov.au)
2. provide a contact address to which notices can be forwarded
3. outline the basis for the complaint in as much detail as possible.

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. For further information: <https://www.oic.qld.gov.au/>.

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. For further details: <https://www.oic.qld.gov.au/>.