

Information Privacy Plan

PR_OM_001



Statement

The *Information Privacy Act 2009* (IP Act) regulates how public sector agencies and statutory bodies, such as Energy and Water Ombudsman Queensland (EWOQ), manage personal information and provide access and amendments rights to personal information held by them.

Under the IP Act personal information held by Queensland government agencies must be responsibly and transparently collected and managed (including transfer of personal information held by agencies to other agencies, other levels of Government or the private sector) in accordance with the 11 Information Privacy Principles (IPPs), contained in Schedule 3 to the IP Act.

The IP Act also sets out the conditions under which personal information may be transferred outside of Australia, and the rules regarding contracted service providers.

Chapter 3 of the IP Act creates a right for individuals to access and amend their personal information.

In addition, section 79 of the *Energy and Water Ombudsman Act 2006* prohibits disclosure of information obtained while performing a function under the Act unless the disclosure is for a specified purpose.

The IP Act also provides a new complaint mechanism for any act or practice that is a breach of the Information Privacy Principles.

The aim of this plan is to assist members of the public, EWOQ staff, contractors and consultants to understand how personal information is managed within EWOQ, and to be assured that such information is maintained in accordance with the IP Act.

Scope

This plan outlines EWOQ's obligations in relation to the collection, management, use, storage and disclosure of personal information held by EWOQ and applies to:

- all EWOQ employees whether permanent, temporary or casual
- work experience staff
- any person or entity engaged by EWOQ to provide a service, information or advice, and
- selection panel members involved in the recruitment of EWOQ staff.

Definitions

Cases A case is all contact with EWOQ including enquiries, referrals, refer to higher level and complaints

Complaint A complaint is all contact with EWOQ excluding enquiries, including a verbal or written expression of dissatisfaction about the service or actions of EWOQ in relation to any aspect of the service provided by EWOQ or the conduct of an officer.

Complaint officer	An officer appointed by the EWO to access and/or investigate a complaint. The complaint officer is independent from the matter.
Customer	Small customer (energy), small customer (water), an eligible customer, and an eligible non-residential energy customer within the meaning of s.6 of the Energy and Water Ombudsman Act 2006 .
Delegated officer	A person to whom a function or power has been delegated.
Employee	As defined in Section 9 of the Public Service Act 2008 .
EWO	Energy and Water Ombudsman, appointed pursuant to the <i>Energy and Water Ombudsman Queensland Act 2006</i> .
EWOQ	Energy and Water Ombudsman Queensland established under the <i>Energy and Water Ombudsman Queensland Act 2006</i> .
IPP	The Information Privacy Principle under the IP Act.
IP Act	The Information Privacy Act 2009
Refer to other agency	A referral to other agency is when the matter raised is not within the jurisdictional responsibilities of EWOQ.
RTI & IP Coordinator	The EWOQ Right to Information and Information Privacy Coordinator.
SP	Energy / water retailer / distributor who is a member of the EWOQ scheme.
The Regulation	The <i>Energy and Water Ombudsman Regulation 2007</i> .

Responsibilities for Information Privacy in EWOQ

Overall responsibility for the proper use of personal information rests with the EWO. However, all EWOQ staff are responsible for ensuring that they comply with the RTI Act, IP Act and Information Privacy Plan in relation to the collection, management, use and disclosure of personal information held by EWOQ. Employees are given access only to information which is relevant to their duties.

The day-to-day management of information privacy has been delegated to the Right to Information and Information Privacy Coordinators who are the first point of contact for members of the public and employees on privacy matters, including:

- monitoring, managing, maintaining and reporting ongoing compliance with the IP Act and providing general information on privacy related issues in EWOQ
- dealing with requests to amend records containing personal information
- dealing with suspected breaches of privacy and privacy complaints
- conducting privacy audits

The Right to Information and Information Privacy Coordinator can be contacted at rti&ip@ewoq.com.au or by phone on 1800 662 837.

Corporate Services is responsible for reporting privacy matters to the EWO and for preparing relevant reports for senior management.

Personal Information

What is personal information?

'Personal information' is defined in the IP Act¹ 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.

Personal information can be found in correspondence, emails, information provided via online web sites, audio recordings, images, alpha-numerical identifiers and combinations of these.

It is not limited to information that is sensitive or confidential, although the degree of sensitivity or confidentiality may influence the way in which the IPPs are applied in particular circumstances. It is also not necessary for the information to disclose directly the identity of the individual, it need only provide sufficient information to lead to the possible identification of a person. Many of the IPPs require that reasonable actions be taken, having regard to the specific circumstances and the nature of the information.

What is not personal information?

Personal information does not apply to information which is generally publically available. This includes information found in magazines, books, newsletters, newspaper articles, annual reports and the Queensland Government Gazette. Information about a deceased person is also not considered personal information for the purposes of the IP Act.

Schedule 1 of the IP Act sets out the categories of documents to which the IPPs do not apply to the extent that those documents contain personal information. These include documents concerning:

- Covert operations of law enforcement agencies
- Witness protection
- Certain complaints and investigations of misconduct under the *Police Service and Administration Act 1990* and the *Crime and Corruption Act 2001*
- Cabinet and executive council documents
- Commissions of Inquiry
- Public interest disclosures made under the *Public Interest Disclosure Act 2010*.

What is "routine" personal information?

Disclosure of an officer's routine personal work information is unlikely to be a breach of the IP Act.

Routine personal information is personal information about an EWOQ employee that relates solely to the routine day-to-day work duties of that employee. Such information includes:

- a work email address or work phone number
- the fact of authorship of a work document, for example where the person's name is listed as one of the authors of a report
- a professional opinion given wholly in a professional capacity, for example an independent report
- a work classification, for example, a description such as "AO6 project officer"

¹ Section 12 IP Act

- a work responsibility, for example that the officer is the contact person in response to an investigation, complaint or query from a member of the public, or that an officer has responsibility for making certain administrative decisions
- information about qualifications held where they are required for the officer's position.

What are EWOQ's obligations under the IP Act?

There are 11 IPPs that apply to EWOQ and specify how personal information is to be collected, stored, secured, accessed, amended, used and disclosed.

However, the IPPs are subject to a specific provision in the Act, s.25A, which provides:

Use and disclosure of personal information

(1) For any IPP under the *Information Privacy Act 2009*, the making of a dispute referral is, of itself, taken to be agreement by each party to their personal information relevant to the dispute—

- (a) being used by the energy and water ombudsman or either party for a preliminary inquiry or investigation concerning the dispute; or
- (b) being disclosed by the ombudsman to a party or from a party to the ombudsman for a purpose mentioned in paragraph (a); or
- (c) if a party is required to disclose the information under section 24(2) or 29, being disclosed to the ombudsman.

In practice, personal information provided to EWOQ will be disclosed to the scheme participant (the customer's energy or water supplier/distributor) complained about so that EWOQ can obtain their response to the complaint or seek clarification of an issue or further information. See section 7 below for further information on the type of personal information is disclosed and for what purposes.

IPPs 1-3: Collection of personal information

Principle 1: Collection of personal information (lawful and fair)

Principle 2: Collection of personal information (requested from individual)

Principle 3: Collection of personal information (relevance etc)

EWOQ can only collect personal information for a lawful purpose directly related to its functions and activities. The purpose of collection should be specific and current and the information must be complete and up-to-date. EWOQ must not collect information in a way that is unfair or unlawful, and the collection must not intrude unreasonably into the personal affairs of the person.

When personal information is being collected, EWOQ must take reasonable steps to inform the individual:

- the purpose of collecting the information
- whether the collection is authorised by or required under law
- any person, body or agency to whom the information is normally disclosed.

EWOQ does this in the form of disclosure notifications on our web site, telephone recorded messages and online complaint page.

IPP 4: Storage and security of personal information

EWOQ must ensure that the information it holds is protected by reasonable safeguards against loss, unauthorised access, use, modification or disclosure, or any other misuse.

If EWOQ gives personal information to another entity or agency in the course of one of its activities and functions, it must take reasonable steps to prevent unauthorised use or disclosure of the information by that

other entity or agency. Contacts between EWOQ and external service providers must include provisions to protect personal information holdings.

IPPs 5-7: Access to and amendment of personal information

Principle 5: Providing information about documents containing personal information

Principle 6: Access to documents containing personal information

Principle 7: Amendment of documents containing personal information

The IP Act requires that EWOQ provide individuals with access to their own personal information held by EWOQ, except if this is not permitted by law. EWOQ must also allow an individual to request amendment of any inaccurate, irrelevant, out-of-date, incomplete or misleading personal information.

The categories of information and processes for making an application to access or amend personal information held by EWOQ are listed below.

IPPs 8-10: Use of personal information

Principle 8: Checking the accuracy of personal information before use by agency

Principle 9: Use of Personal information only for relevant purposes

Principle 10: Limits on use of personal information

EWOQ must take reasonable steps to ensure that personal information is accurate, up-to-date, relevant and complete before using it.

EWOQ must not use personal information for any purpose other than the purpose for which it was collected, unless:

- the individual has expressly or impliedly agreed to the use
- there are reasonable grounds to believe that the disclosure is necessary in order to prevent or lessen a serious threat to the life, health, safety or welfare of an individual, or public health, safety and welfare
- the use is required or authorised by law
- the use is reasonably necessary for certain law enforcement activities
- the use is directly related to the purpose for which the information was obtained
- the use is necessary for research or statistical analysis in the public interest and certain preconditions are met.

IPP 11: Disclosure of personal information

EWOQ must not disclose personal information to a third party unless one of the following exceptions applies:

- the individual is reasonably likely to be aware that the information is usually passed to the other entity
- the individual has expressly or impliedly agreed to the disclosure
- there are reasonable grounds to believe that the disclosure is necessary in order to prevent or lessen a serious threat to the life, health, safety or welfare of an individual, or public health, safety and welfare
- the disclosure is authorised or required under a law
- the use is reasonably necessary for certain law enforcement activities
- the use is necessary for research or statistical analysis in the public interest and certain preconditions are met

- the information is used for a commercial purpose involving EWOQ's marketing of anything to the individual, but only if it is satisfied on reasonable grounds that the considerations listed in IPP 11(4) are met.

Types of information collected and held and how the information may be used/disclosed by EWOQ

EWOQ holds personal information as paper files, images, and/or electronic format. Personal information may be collected from staff members, scheme participants or individuals when they first come into contact with EWOQ, whilst they continue to be in contact with EWOQ or throughout the course of a case.

Dispute Resolution Services

A wide range of personal information is obtained from individuals in responding to and assessing a complaint, or during the course of an investigation under the Act. Personal information includes but is not limited to:

- Name
- contact details e.g. current and previous addresses, telephone numbers, email address
- number of occupants at a residence
- current and past energy or water account information
- information obtained from an energy or water supplier
- information obtained from an energy or water distributor
- photos for example, energy or water meters at a residence, the residence/property, foliage at the residence/property
- information from collection agencies
- special needs e.g. an interpreter.

On a day-to-day basis any officer with responsibility for receiving and responding to enquiries, conducting investigations or undertaking associated administrative activities and any officer responsible for supervising such activities, may have access to personal information.

As stated in section 6 above, personal information provided to EWOQ will be disclosed to the scheme participant (the customer's energy or water supplier/distributor) complained about so that EWOQ can obtain their response to the complaint or seek clarification of an issue or further information.

The personal information that a customer chooses to provide to the EWOQ may also be used for management purposes, for example:

- internal or external use and publication (in a de-identified form)
- compilation of statistics (in a de-identified form)
- case studies (in a de-identified form)
- presentations (in a de-identified form)
- systemic issues investigation
- ongoing staff training
- service quality assessments that are conducted internally or by an external market research company
- research
- maintaining and developing our services, systems and infrastructure including testing and upgrading of these systems.

If a complaint is not within EWOQ's jurisdiction we may, with the customer's consent, refer the complaint to government entities which have a legitimate interest in the information, for example:

- Queensland Office of Fair Trading
- Queensland Competition Authority

- Department of Energy and Water Supply
- Australian Competition and Consumer Commission and Australian Energy Regulator
- Queensland Ombudsman
- Australian Energy Market Commission
- Office of the Australian Information Commissioner.

The EWOQ is a recognised external dispute resolution scheme (EDR) under section 35 of the [Privacy Act 1988 \(Cth\)](#). Subject to the [Energy and Water Ombudsman Act 2006](#), EWOQ will receive, investigate, facilitate the resolution of, make decisions and recommendations for, and report on, complaints within its scope about acts or practices of EWOQ scheme participants that may be an interference with the privacy of an individual under subsections 13(1) and/or 13(2) of the *Privacy Act 1988 (Cth)*. EDR privacy complaints may be referred to the [Office of the Australian Information Commissioner](#).

Policy and Research

EWOQ's Policy and Research Team accesses customers' personal information to help EWOQ discharge its functions.

The systemic issues team within the Policy & Research Team identifies systemic issues and works with the energy or water supplier concerned. The team works with the supplier to resolve the issue by providing detailed information including personal information about the customers and the nature of the issue.

A customer's personal information may also be provided to government entities with a legitimate interest in the information provided EWOQ has the customer's consent or is required by law to do so, for example, by force of a subpoena.

A customer's personal information may also be used for internal or external surveys. Customers are given an opportunity to consent to be involved in the surveys or advise EWOQ that they do not wish to be surveyed. Information that identifies customers (name and contact details only) may be provided to an external company solely for the purpose of that company conducting surveys on behalf of EWOQ.

EWOQ enters into agreements with these external companies which require that they must comply with the IP Act and keep all personal information about customers confidential, and must not disclose that information, or any information they receive in the course of conducting the survey, to any person other than a delegated staff member of EWOQ.

EWOQ maintains an interactive website. As well as being a significant source for information and resources concerning the day to day operations of EWOQ, individuals are also able to:

- Make a complaint online
- Contribute to social media platform discussions on energy and water related issues.

EWOQ will deal with the personal information provided online in accordance with its legislation obligations and the IP Act.

Corporate activities

On a day-to-day basis EWOQ staff has access to personal information subject to appropriate authorisation and operational need including authorised IT systems administration staff. The information is not normally disclosed to other persons or organisations without the consent of the person about whom the personal information relates, or if a statutory or contractual obligation exists. The records are generally stored on paper, electronic media or photographic image.

EWOQ and its Shared Service Provider collects, receives and holds a range of information concerning EWOQ employees and scheme participants that falls within the definition of personal information.

Employee related information is collected and held under the *Public Service Act 2008* and the *Public Service Regulation 2008*, and is used to maintain employment history, payroll and administrative information relating to all current and former staff members including, contract and temporary employees of EWOQ.

Employee personnel records consist of but are not limited to personnel, payroll, recruitment, performance appraisal and other records. The information collected may include name, date of birth, occupation, employee identification number, general medical information, qualifications, next of kin, relationship details, details of pay and allowances, travel records, personal financial information, leave details, timesheet information and overtime records, work reports, employment history, staff awards, disciplinary investigations and actions, performance assessments and criminal convictions and records of IT system usage.

This information is used for EWOQ's internal human resource management functions, including assessing whether staff are complying with policies and procedures. It is also used to protect EWOQ IT systems, and maintain computer and network system performance and security.

Recruitment records may consist of but are not limited to applications for employment with EWOQ, records relating to referee checks, interview notes and selection panel assessments. This information is collected and used solely for the purpose of selecting employees. It may be accessed by staff appointed to sit on selection panels or third parties forming part of a selection panel, the delegate responsible for approving appointments, and any officer assisting with the administrative functions associated with staff recruitment.

The relevant details about a person's application may be disclosed to a person's nominated referees in the event their application warrants a referee check.

Limited and specific personal information is disclosed to third parties as appropriate, including Q-Super, Australian Taxation Office, organisations in receipt of payroll deductions and external medical/emergency personnel. Otherwise information is only disclosed to third parties with the permission of the staff member or as required by law (for example, to the Crime and Misconduct Commission in connection with allegations of official misconduct).

EWOQ's information management systems network routinely carries, enables processing of, and stores EWOQ's complaints management database and various corporate services functions. EWOQ's IT officers, consultants and shared services provider may have access to information concerning internet and email usage and security.

Financial Management records are kept by EWOQ and stored on paper and electronic media. The purpose of these records is to process and account for expenditure and revenue. Content may include: name, address, service or goods, bank account details and transaction history. Financial Management information is also accessed by EWOQ's shared service provider in order to provide services such as processing and maintaining financial systems. This information is not usually disclosed to other persons or organisations. The records are stored on paper and electronic form.

Administration records support the objectives of EWOQ by assisting with the effective and efficient operation of all areas of EWOQ. The records relate to correspondence, policy, mailing lists, stakeholder groups, communications and publications, audit outcomes, security and general management issues.

Third party service providers

From time to time EWOQ enters into a contract or other arrangement for the provision of goods and services associated with the performance of any of EWOQ's functions with external persons and entities. Some of these contracts require the disclosure of personal information to third parties, or the collection of personal information by third parties on behalf of EWOQ.

EWOQ will take all reasonable steps to ensure that the service provider, in discharging its obligation under the contract or arrangement, complies with the relevant obligations contained in the IPPs and that any outsourcing arrangements, contracts, agreements, licences and Memoranda of Understanding entered into after 1 July 2009 must comply with these principles as if it were EWOQ.

EWOQ will also ensure that the contract or arrangement contains appropriate privacy clauses, or documents steps taken to require the contractor to comply with the IP Act.

Transferring information overseas

The IP Act specifically regulates the transfer of personal information to entities outside Australia. Information can only be transferred outside Australia by EWOQ if:

- the person agrees to the transfer; or
- the transfer is authorised or required by law; or
- there are reasonable grounds to believe that the transfer is necessary in order to prevent or lessen a serious threat to the life, health, safety or welfare of an individual, or public health, safety and welfare; or
- two or more of the following apply:
 - the recipient is subject to binding privacy obligations that are substantially similar to the IPPs
 - the transfer is necessary to perform EWOQ functions in relation to the individual
 - the transfer is for the benefit of the individual and it is not possible to seek their consent, but if sought it would likely be given
 - reasonable steps have been taken to ensure the information is protected.

Acts administered by EWOQ

The EWO's jurisdiction, powers and functions are contained in the Act and the Regulation, which authorises the collection and use of personal information. The Ombudsman is not responsible for the administration of any other legislation.

How to apply to EWOQ to access or amend personal information

Except where access is restricted by law, IPP 6 and IPP 7 provides that a person can apply to EWOQ to access and/or amend their own personal information. Personal information can be amended if it is inaccurate, incomplete, out-of-date or misleading.

Personal information cannot be accessed by others, except as provided for in the IP Act and the *Right to Information Act 2009*, or as required by other legislation.

Any request for access or amendment must be made on the approved form https://www.smartservice.qld.gov.au/services/information-requests/form/Form-1_RTI_IP-Access-Application-Form-v7.pdf and should be directed to the EWOQ Right to Information and Information Privacy Coordinator at the following address:

RTI&IP Coordinator
Energy and Water Ombudsman Queensland
PO Box 3640
SOUTH BRISBANE BC QLD 4101

Any questions can be emailed to the RTI & IP Coordinator at rti&ip@ewoq.com.au or contact the Coordinator on telephone 1800 662 837.

Complaint and review procedures

If you believe that your personal information has not been handled in accordance with the IP Act, you may make a complaint to EWOQ. Complaints relating to information privacy will be managed under the EWOQ Complaints Process. Further information on EWOQ's Complaint Management Process is available on the EWOQ website.

The complaint should be made no longer than six months from the date when the breach was suspected to have occurred.

Privacy complaints made to EWOQ must:

- be in writing
- state an address of the complainant to which notices may be forwarded under the IP Act
- include certified identification
- provide particulars of the complaint
- be forwarded to EWOQ's RTI and IP Coordinator using the contact details above.

Complaints will be acknowledged in writing within 14 days from the date on which the complaint is received, and processed within 45 business days.

Where a longer period of time is required to finalise a complaint, the complainant will be contacted with a view to negotiating an extension of time. On completion, the complainant will be advised in writing of EWOQ's decision, including any remedies that are considered appropriate to resolve the complaint.

If a complainant does not agree with EWOQ's decision, or has not received a decision from EWOQ after 45 days has elapsed from the date the complaint was received by EWOQ, they may take the complaint to the Office of the Information Commissioner (OIC). Complaints to the OIC must be in writing. More information about the Information Commissioner's privacy complaints process is available at www.oic.qld.gov.au/about/privacy/privacy-complaint-form.

Further information

For further assistance on any matter contained in the EWOQ Information Privacy Plan contact the Manager Corporate Services or the Right to Information and Information Privacy Coordinator on 1800 662 837.

Related resources

Related legislation

[Public Service Act 2008](#)
[Public Sector Ethics Act 1994](#)
[Public Interest Disclosure Act 2010](#)
[Right to Information Act 2009](#)
[Information Privacy Act 2009](#)
[Privacy Act 1988 \(Cth\)](#)
[Crime and Corruption Act 2001](#)
[Energy and Water Ombudsman Act 2006](#)
[Energy and Water Ombudsman Regulation 2007](#)

Useful links

[Code of Conduct for the Queensland Public Service](#)
[Ethics in the Queensland Public Sector](#)
[Office of the Australian Information Commissioner](#)

Approval

Approved by the Energy and Water Ombudsman and effective from the date endorsed.

Lyn Stevens

Acting Energy and Water Ombudsman

Date 30 / 11 / 2016

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