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Office of the Registrar

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Department of Justice and Attorney-General
GPO Box 149
Brisbane QLD 4001
Via email: FeedbackRTIandprivacy@justice.qld.gov.au

Re: RTI and Privacy Review

QUT welcomes the opportunity to comment on the 2016 Review of the RTI and Privacy Acts.

We have responded to the issues that are relevant to QUT and reflect our experience of the operation of the RTI and IP Acts since 2009.

Question 1. Are the objects of the RTI Act being met? Is the push model working? Are there ways in which the objects could be better met?

The push model is effective and has assisted QUT in developing administrative access schemes for disclosing information to students and to the community. The model reduces the reliance on formal application processes which are costly for the University and the public.

Question 2. Is the privacy object of the IP Act being met? Is personal information in the public sector environment dealt with fairly? Are there ways that this object could be better met?

The principles based approach is technology neutral and has been an enduring and largely effective way of managing privacy in a rapidly changing information landscape. QUT has some concerns with regard to transfer of information overseas and data analytics that are addressed in Q26 and Q27.

Question 3. Should the way the RTI Act and Chapter 3 of the IP Act applies to GOCs, statutory bodies with commercial interests and similar entities be changed? If so, in what way? Is there justification for treating some GOCs differently to others?

The push model is aligned with the Government's 2012 Open Data initiatives. QUT is strongly supportive of open data and is a pioneer in open access to [research and research data](#), publishing some 73 000 works and providing 21.5 million downloads [since 2005](#). It is conceivable that the RTI Act could be amended to require certain data to be published. However, due to the commercial nature of the environment in which universities operate, competing for student enrolments and for research funding in international and domestic markets, QUT would be strongly opposed to a legislative mandate that required commercially sensitive information to be released in a way that placed the University at a disadvantage compared competitors, both in the public or private sectors.

Question 7. Has anything changed since 2013 to suggest there is no longer support for one single point of access under the RTI Act for both personal and non-personal information?

Separate access points for personal and non-personal information is confusing for applicants. There would be some operational benefit to QUT in having a single point of access.

With Solomon's original intention in mind, to provide a simple and low cost means for an individual to access their personal information, consideration could be given to simplifying the access and amendment regime in Chapter 3 of the IP Act. The time and resources required by QUT to provide access to personal information through the legislated scheme is consumed by public interest decision-making about documents containing non-personal information. Permitting the removal of non-personal information in a straightforward way that does not require a full public interest balancing test decision would speed up the process for agencies and for applicants. Any such amendment would not prejudice the right of an applicant to make further applications for non-personal information under the RTI Act.

Question 9. Should the threshold for third party consultations be changed so that consultation is required where disclosure of documents would be 'of substantial concern' to a party?

Yes. The current threshold is very low and can lead to additional processing and delay for no real benefit to the third party.

Question 12. Given the 2013 responses, should the public interest balancing test be simplified; and if so how? Should duplicated factors be removed or is there another way of simplifying the test?

See comment on Q7 about access to personal information under chapter 3 of the IP Act.

Question 17. Should the disclosure log requirements that apply to departments and Ministers be extended to agencies such as local councils and universities?

The existing requirement to publish a disclosure log is considered to be adequate. Placing the further requirements for Ministers and Departments on universities would add to the cost of processing without providing tangible benefit to the community or to applicants.

Question 19. Do agency publication schemes still provide useful information? Or are there better ways for agencies to make information available?

There is limited evidence about how publication schemes assist the community. Most applicants will consult the University's website, which provides extensive information about QUT's operations, or will be directed to the Personal Information Register or Information Asset Register.

Question 24. What would be the advantages and disadvantages of aligning the IPPs and/or the NPPs with the APPs, or adopting the APPs in Queensland?

QUT supports the views expressed during the 2013 consultation that alignment of the privacy principles would reduce the compliance burden.

QUT collects and uses health information for service provision and research and enters into contractual arrangements with entities regulated by the Privacy Act 1988 (Cth). Managing compliance obligations are time and resource consuming requiring the establishment of specific protocols and support to address differences between the APPs and IPPs.

A disadvantage would be the resources required to update staff training and support information. A manageable transition could be achieved with a deferred implementation date.

Question 25. Should the definition of 'personal information' in the IP Act be the same as the definition in the Commonwealth Act?

Alignment with the text in the Commonwealth Act definition would have no noticeable impact on the way QUT operates. Any change would require an update to policy, advice and training materials.

Question 26. Does the IP Act inappropriately restrict the sharing of information? If so, in what ways? Do the exceptions need to be modified? Would adopting a 'use' model within government be beneficial? Are other exceptions required where information is disclosed?

The use of data containing personal information for internal reporting and learning analytics helps QUT to improve services. The process by which information is used and shared within QUT is managed according to the IPPs, a specific "Big data" privacy protocol we have prepared and the use of privacy impact assessment methodology. QUT considers the sharing of information between its departments and faculties to be "use" by the agency, not "disclosure". A "use" model designed to standardise and simplify the principles relating to sharing and using personal information within an agency for internal research and analysis that aligns with community expectations would be beneficial.

Question 27. Does section 33 create concerns for agencies seeking to transfer personal information, particularly through their use of technology? Are the exceptions in section 33 adequate? Should section 33 refer to the disclosure, rather than the transfer, of information outside Australia?

QUT would support a change to section 33 to replace "transfer" with "disclosure" outside of Australia. Any change should have the effect of excluding from the provision the transmission of encrypted personal information and the transfer of personal information as part of contracted IT service arrangements.

Question 29. Should there be a time limit on when privacy complaints can be referred to QCAT?

Yes. Depending on the nature of the privacy complaint, dealing with and investigating a complaint long after the incident took place can present difficulties.

Question 34. Are there other ways in which the RTI Act or the IP Act should be amended?

Processing access applications for information contained in electronic documents can be time consuming. Information in electronic systems or databases is often duplicated across many pages. A fair and transparent way to remove electronically generated duplicate information from documents located would greatly assist decision-makers.

Yours sincerely



Shard Lorenzo
University Registrar