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Review of the *Right to Information Act 2009* and Chapter 3 of the *Information Privacy Act 2009*: Discussion Paper August 2013

In response to the questions posed in the *Right to Information Act 2009* discussion paper, please find submission as follows:-

Part 1 – Objects of the Act – “Push Model’ Strategies

- 1.1 Believe the Act’s primary object is still relevant
- 1.2 Support the “push model” as appropriate and effective.

Part 2 – Interaction between the RTI and IP Acts

- 2.1 Recommend moving right of access to the Right to Information Act as the single entry point. Interaction between the acts can be difficult for applicants to understand.

Part 3 – Applications not limited to personal information

- 3.1 Processing period should be suspended for a prescribed period while the agency is consulting with the applicant for processing under the IP Act. Enables decision maker extra time if experiencing difficulties contacting the applicant or agent.
- 3.2 The requirement for an agency to again consider whether the application can be made under the IP Act should be retained.
- 3.3 Recommend the timeframe for section 54(5)(b) should be 10 business days instead of 10 calendar days.

Part 4 – Scope of the Acts

- 4.1 Recommend the Act include agencies may refuse access on the basis that a document is not a “document of an agency or a document of a Minister”.
- 4.2 Recommend a decision that a document is not a “document of the agency or Minister” be a reviewable decision.
- 4.3 The timeframe for making a decision that a document or entity is outside the scope of the act should be extended to 25 business days.
- 4.4 Do not have a comment.
- 4.5 Do not have a comment.
- 4.6 Support that the RTI Act and Chapter 3 of the IP Act apply to the documents of contracted service providers where they are performing functions on behalf of the government.

Part 5 – Publication schemes

- 5.1 Agencies with websites should be required to publish publication schemes.
- 5.2 Believe agencies would benefit from further guidance on publications schemes. Could ensure improved consistency between agencies.
- 5.3 Do not have a comment.

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Part 6 – Applying for access or amendment under the Acts

- 6.1 Support that the application form be retained but does not need to be compulsory. The applicant should not have to specify what legislation, as not all applicants will understand or be able to indicate which Act they are applying under.
- 6.2 Amendment form should be retained but not compulsory.
- 6.3 The list of qualified witnesses who may certify copies of identity documents should be expanded. In rural communities it can be difficult for the applicant to have identity documents certified. Support Qld Police Services and General Practitioners as qualified witnesses.
- 6.4 Agents should be required to provide evidence of identity.
- 6.5 Do not support the refunding of application fees for additional reasons.
- 6.6 The Acts are not adequate for agencies to deal with on behalf of children. Parents are confused when advised the decision maker will consider release “in the best interests of the child”. Parents believe as the primary caregiver they are entitled to all documents and a “decision maker” has no understanding of the family dynamics. Difficult for decision maker to determine whether disclosure of information is in the best interests of the child.
- 6.7 A further specified period should begin after the end of the processing period.
- 6.8 The agency should be able to continue to process an application outside the processing period and further specified period until they hear than an application for review has been made.
- 6.9 Believe that charges estimate notice (CEN) should be optional
- 6.10 Applicants should be limited to two CEN’s.
- 6.11 Applicants should not be able to challenge the amount as the CEN indicates the costs and the applicant is able to narrow scope of application if charges are a financial concern.
- 6.12 A schedule of documents should be optional.
- 6.13 Recommend that the current threshold for third party consultation remain as current.
- 6.14 Believe that the Acts should set out the process for determining whether the identity of applicants and third parties are disclosed.
- 6.15 If documents are held by two agencies the Act should provide for the agency whose functions relate more closely to the documents to process the application.
- 6.16 If under one piece of legislation, written notices would be easier for the applicant to read and understand.
- 6.17 Do not have a comment.
- 6.18 Applicants should have the option for external review.

Part 7 – Refusing access to documents

- 7.1 Do not have a comment.
- 7.2 Exempt information categories are satisfactory and appropriate.
- 7.3 Do not have a comment.
- 7.4 Do not have a comment.
- 7.5 Do not have a comment.
- 7.6 Do not have a comment.
- 7.7 Do not have a comment.
- 7.8 Do not have a comment.
- 7.9 Do not have a comment.
- 7.10 Do not have a comment.

Part 8 – Fees and charges

- 8.1 Do not have a comment.
- 8.2 Do not have a comment.
- 8.3 Processing period should be suspended for a prescribed period when a non-profit organisation applicant is waiting for a financial hardship status decision.
- 8.4 Don’t support waiver of fees for applicants applying for information about people treated in multiple HHSs.
- 8.5 Refer 8.4 no waiver of fees.

Part 9 – Reviews and appeals

- 9.1 Internal review should remain optional and believe current system is working well.
- 9.2 Do not have a comment.
- 9.3 Do not have a comment.
- 9.4 Do not have a comment.
- 9.5 Do not have a comment.
- 9.6 Do not have a comment.

Part 10 – Office of the Information Commissioner (OIC)

- 10.1 Do not have a comment.
- 10.2 Do not have a comment.
- 10.3 Do not have a comment.
- 10.4 Do not have a comment.
- 10.5 Do not have a comment.

Part 11 – Annual Reporting Requirements

- 11.1 Current reporting collates “number of documents considered” which excludes other documents that are identified as “out of scope”. These “out of scope” documents take time to identify and time spent reviewing all documents are not reflected in Annual Reporting. Believe that “number of documents considered” should include total number of pages read not those considered/released in scope of request.

Part 12 – Other Issues?

- 12.1 No further issues.
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Review of the *Information Privacy Act 2009*: Discussion Paper August 2013

In response to the questions posed in the *Information Privacy Act 2009* discussion paper, please find submission as follows:-

Part 1 – Considering the Information Privacy Principles (IPPs), with the Australian Privacy Principles (APPs) in Qld.

- 1.0 Do not have a comment

Part 2 – Sharing Information

- 2.0 Do not have a comment

Part 3 – Definition of “personal information”

- 3.0 The definition of personal information in the IP Act should be amended to bring it into line with the definition in the *Commonwealth Privacy Amendment Act 2012*.

Part 4 – Definition of “agency”

- 4.0 Do not have a comment

Part 5 – Technology Issues

- 5.0 Do not have a comment

Part 6 & 7 – Personal information published on agency websites

- 6.0 Do not have a comment
- 7.0 Do not have a comment

Part 8 – Privacy Complaints approach

- 8.0 The IP Act should provide more detail about how complaints are dealt with.

Part 9 – Privacy Complaints timeframe

9.0 Do not have a comment

Part 10 – Privacy Commissioner

10.0 Do not have a comment

Part 11 – Person acting as an agent for a child

11.0 The parent's ability to do things on behalf of a child should not be limited to Chapter 3 access and amendment applications. Believe if a child is of a reasonable age and has capacity they should be consulted.

Part 12 – Generally available publication

12.0 Do not have a comment

Part 13 – Information Privacy Principles (IPPs) specific to documents

13.0 The reference to "documents" in the IPPs should be removed. IPP's would need to be aligned with the National Privacy Principles (NPPs)

Part 14 – IPP4 Element of reasonableness

14.0 Do not have a comment

Part 15 – IPP 2 and 3 Collect / ask for information

15.0 Do not have a comment

Thank you for the opportunity to provide input about the Acts under review as per August 2013 discussion paper. My apologies for the delay in submitting a reply from Wide Bay Hospital and Health Service. Please note these comments represent my own views as RTI / IP Decision-maker and do not reflect the opinions of the Wide Bay Hospital and Health Service. I understand that any submissions provided will be treated as public documents.

Yours sincerely

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