

# The Public Trustee

ABN 12 676 939 467 p: 1300 360 044 www.pt.qld.gov.au

444 Queen Street Brisbane Qld 4000  
GPO Box 1449 Brisbane Qld 4001



15 November 2013

[REDACTED]  
Strategic Policy, Legal and Executive Service  
Department of Justice and Attorney-General  
GPO Box 1449  
Brisbane QLD 4001

Phone: [REDACTED]  
Fax: [REDACTED]  
Officer: [REDACTED]  
Email: [REDACTED]

Your Reference: *Review of Information Privacy Act 2009: Privacy Provisions*

Dear [REDACTED]

In August 2013, Justice and Attorney General issued the following discussion papers:

- *Review of Information Privacy Act 2009: Privacy Provisions* and
- *Review of the Right to Information Act 2009* and Chapter 3 of the *Information Privacy Act 2009*

The purpose of the discussion papers was to identify key issues and challenges raised by the implementation of the legislation and seek the views of interested persons, agencies or organisations about these issues. The Public Trustee has reviewed the documents and has prepared responses to those issues with significance relevance to the Public Trustee. The responses to the issues are included in Appendix One and Two.

To assist you in understanding the Public Trustee's responses to the particular issues I will provide some background as to our management of Right to Information and Information Privacy activities. The Department of Justice and Attorney General Right to Information and Privacy Unit process the Public Trustees access and amendment applications under the Right to Information Act 2009 and Information Privacy Act 2009. A Deed of Agreement supports the operation of this arrangement.

Should you have any questions or require any clarification please contact me on [REDACTED] or via email at [REDACTED]

Yours faithfully

[REDACTED]  
**Peter Carne**  
**Public Trustee of Queensland**

## **Appendix One – Review of Information Privacy Act 2009: Privacy Provision**

The responses have been limited to those areas of particular significant relevance to the Public Trustee. It should be noted that the response have been framed around PTQ using an external RTI/IP decision making.

### ***8.0 – Should the IP Act provide more detail about how complaints should be dealt with?***

It is considered that the IP act should provide more detail about how privacy complaints should be dealt with to ensure that both the applicant and the agency have a clear and consistent understanding as to the compliant management process. It will also ensure consistency across the sector, so applicants with complaints across multiple government agencies will be handled consistently using the mandated process. In developing the privacy complaints process for inclusion in the legislation, consideration should be given to the impact on smaller agencies that do not have resourcing for large RTI/IP processing units.

### ***9.0 – Should the IP Act provide more flexibility about the timeframe for complaints to the OIC be lodged?***

It is considered that the IP Act should provide more flexibility about the timeframe for complaints to the OIC be lodged. IP Privacy requests, in particular those from officers or employees of the Office can have very large scopes. For example, a request was received for all documents containing an individual's name over a period of up to 10 years. Whilst the scope of IP particular requests can be narrowed, the processing of the requests can be very resource intensive. Resources are required to identify, extract, collate and review the relevant documents. One request was calculated to require over 1000 hours from Information Services. On this basis, it can take up to 45 days to process the request and the current system allows the OIC to be contacted before the matter is finalised. More flexibility should be incorporated into the Act regarding the timeframes for complaints to the OIC be lodged particularly when an extension has been agreed with the applicant.

### ***General Comment***

In regards to the general operation of the Act, it has been noted that the majority of the Information Privacy applications received are from employees within the Office rather than clients. Dependent on the position of the applicant within the organisation, the request can put a significant impost on of the organisation due to the resources required to identify, extract, collate and review the relevant documents. Under the current arrangements the request can be as broad as all documents containing the individual's name over an extended period. The applicant is not required to provide any comment or advice as to the purpose for which the information is sought. The impact of this is that significant resources are diverted from other activities.

## **Appendix Two – Review of Right to Information Act 2009 and Chapter 3 of Information Privacy Act 2009:**

The response provided has been limited to the area of significant relevance to the Public Trustee. It should be noted that the response have been framed around PTQ using an external RTI/IP decision making.

### ***6.1 Applying for access or amendment under the Acts – Valid Applications***

*Should the access application form be retained? Should it remain compulsory? If not, should the applicant have to specify their application is being made under legislation?*

It is considered that the Application Form should be retained as it assists in ensuring the timely processing of requests. The use of the form ensures that the minimum information required to process the application is available. Without a Form, critical information required to process the application may not be provided requiring follow-up with the applicant who may delay the process and create frustration.