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## IPOLA GUIDELINE

### Applying the legislation – Information Privacy Act 2009

#### Anonymity and pseudonymity in complaint management

This guide does not reflect the current law.

It highlights important changes to the *Information Privacy Act 2009*.

This guide does not constitute legal advice and is general in nature only. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

#### 1.0 Overview

Queensland Government agencies<sup>1</sup> are required to comply with the Queensland Privacy Principles (QPPs) in the Information Privacy Act 2009 (Qld) (**IP Act**) when dealing with personal information.

##### 1.1 What is personal information?

Section 12 of the IP Act provides that personal information means information or an opinion about an identified individual or an individual who is reasonably identifiable from the information or opinion, whether it is true or recorded in a material form.

The individual does not need to be directly identified in the information for it to be personal information. It is sufficient if they can reasonably be identified reference to other information. Refer to [Key privacy concepts – personal and sensitive information](#) for more information.

##### 1.2 What is a complaint?

A complaint is an expression of dissatisfaction, usually about an agency's performance, policies, products, services, or employees. Almost all complaints will involve some amount of personal information.

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<sup>1</sup> Agency include a Minister, bound contracted service provider or other entity required to comply with the QPPs.

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## 2.0 Anonymity and pseudonymity

Under QPP 2, agencies must give individuals the option of dealing with agencies anonymously or pseudonymously, unless:

- it is impracticable to do so; or
- the agency is required by a law or court to deal only with an identified individual.

Anonymity means that the individual dealing with an agency cannot be reasonably identified, and the agency does not ask them for personal information or information that might identify them.

Pseudonymity means that the individual gives the agency a name, term, or descriptor instead of their actual name (a pseudonym).

For more information refer to [QPP 2 – dealing anonymously with an agency](#).

## 3.0 Anonymity and complaints

Dealing with complaints is a function of every agency. Whether it is necessary for a complainant to identify themselves will depend on the type of complaint and any governing legislation.

Wherever practicable and legally permissible, agencies must give people the option to make anonymous or pseudonymous complaints.

### 3.1 Advising complainants

Agencies should give people the option to make anonymous or pseudonymous complaints through their website. The complaint page should include a statement letting people know that:

- they can remain anonymous or use a pseudonym
- that if they choose to remain anonymous, or use a pseudonym and provide no contact details, and the agency requires more information to act on the complaint, their complaint may not progress; and
- the agency cannot provide updates or outcomes for anonymous complaints or pseudonymous complaints with no contact details.

If complaints can be made to the agency by phone, agency officers who take complaints should provide this information where appropriate.

This ensures complainants understand the potential consequences of remaining anonymous.

### 3.2 Complaints where anonymity or pseudonymity is practicable

Where a complaint is about a general issue which requires the agency's attention but does not directly relate to the complainant, e.g. about a broken street light or a tip about illegal activity, requiring the complainant to identify themselves may breach QPP 2.



If a complainant insists on identifying themselves when it is not required, the agency does not breach QPP 2 when they record the complainant's identity. If the complainant insists on being identified by a pseudonym, the agency should ensure it is clear to other officers that it is a pseudonym.

### ***3.3 Complaints where anonymity or pseudonymity may not be practicable***

Whether an anonymous or pseudonymous complaint is practicable depends on the circumstances of the complaint.

If a complaint cannot be actioned without knowing who the individual is, it will not be practicable for the complainant to be anonymous, however it may be practicable for the complainant to adopt a pseudonym. For example, if the complaint is 'the dogs next door won't stop barking', and the agency has no way to contact the complainant and find out where 'next door' is located, the complaint cannot progress. If the complaint is 'the dogs next door at 26 Lane Street aren't registered', an anonymous or pseudonymous complaint can readily be actioned.

### ***3.4 Anonymity is not practicable or lawful***

Some complaints cannot be made anonymously or using a pseudonym, either because it is not reasonably practicable for the agency to accept an anonymous or pseudonymous complaint or because doing so would not be lawful.

Where the complaint is made by someone impacted by the decision or action they are complaining about, e.g. a member of the public complaining about how an agency officer handled their matter, an anonymous or pseudonymous complaint would generally not be practicable.

A privacy complaint under chapter 5 of the IP Act could not be made anonymously or pseudonymously, because a privacy complaint needs to identify the individual and details of their personal information and how the individual submits their personal information was mishandled.

## **4.0 Use and disclosure of identifying information**

Agencies must ensure they only use or disclose any complainant identifying information for the purpose of dealing with the complaint, unless one of the exceptions in QPP 6 applies. The exceptions include use and disclosure required to give someone natural justice.

Even where the agency ensures that it does not disclose the name of a complainant, other information the agency releases – together with information that is reasonably available – may allow for identification of the complainant. For example, if the agency investigates the complaint about unregistered dogs and tells the dog owner they received a complaint from a neighbour, that information may be sufficient to identify the complainant.

Generally, the identity of a complainant should not be disclosed to anyone. For some complaints, however, the complainant's identity will be apparent to the subject of the complaint or the agency will need to provide it to conduct the



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investigation, e.g., a complaint that the complainant has been harassed or bullied by an agency officer.

Refer to [QPP 6 – use or disclosure](#) and [QPP 6 – use or disclosure for natural justice](#) for more information.

**For additional IPOLA assistance, please contact the IPOLA team by email [IPOLA.Project@oic.qld.gov.au](mailto:IPOLA.Project@oic.qld.gov.au)**

**For information and assistance on current legislation, please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or by email [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au)**

*Published August 2024 and Last Updated 20 August 2024*