Queensland Cancer Control Safety and Quality Partnership
Quality Assurance Committee
Privacy Policy

1. Purpose

1.1 Pursuant to the *Hospital and Health Boards Act 2011* (HHB Act), the Queensland Cancer Control Safety and Quality Partnership (The Partnership) is bound by confidentiality obligations. These obligations apply to both Committee members and relevant persons[1]. Relevant Persons are individuals authorised by the Committee to help it perform its functions, including providing administrative and/or secretarial services, advising the Committee about the performance of its functions, and/or preparing reports and other information for the Committee.

1.2 Penalties can apply under the HHB Act and/or *Hospital and Health Boards Regulation 2012* if a quality assurance committee fails to comply with its legislated confidentiality obligations. Non-compliance can result in a court applied penalty of up to $11,780.

2. Scope

2.1 The Committee was established pursuant to s.82 of the HHB Act.

2.2 This Privacy Policy applies to:

- the Committee
- members of the Committee
- a person authorised by the Committee as a Relevant Person to assist, including persons who:
  - provide administrative or secretarial services to the Committee
  - advise the Committee about the performance of its functions
  - prepare reports and other information for the Committee.

3. Acquiring and compiling relevant information

3.1 The ways the Committee, a member of the Committee and a Relevant Person helping the Committee can acquire and compile relevant information:

- The Committee may acquire and compile information from public and private sector health facilities, professional associations, national and international entities, including professional colleges, commonwealth departments and non-government organisations.
- The Committee is a prescribed patient safety entity[2] in so far as it can request and receive root cause analysis (RCA) reports, as well as RCA relevant documents.

[1] Relevant Person is defined at Schedule 2 of the HHB Act
[2] See: s.30(1)(e) of the *Hospital and Health Boards Regulation 2012*

- The Committee can request and receive confidential case summaries and patient clinical records, as well as other related information.
- The Committee can seek information from the Office of the State Coroner and the Registry of Births Deaths Marriages and Divorces. Coronial data may include the report of a death to a coroner, autopsy and toxicology reports, coronial findings and other coronial investigation documents.
- When entering the premises' of Queensland Health, dealing with Queensland Health (including its employees, employees of a private hospital and/or members of the public), using Queensland Health's facilities, equipment or resources, the Committee must comply with all applicable rules, policies, standards, codes of conduct, directions and procedures, including those relating to security, workplace health and safety and the appropriate use of information and communication technology as if they were employees of Queensland Health.
- The Committee must give Queensland Health's officers and any other person authorised in writing by Queensland Health reasonable access to the Committee's relevant information for inspection[3].

4. Securely storing relevant information[4]

4.1 Refer to the disclosure obligations of QACs at s.84 of the *Hospital and Health Boards Act 2011,* and identify records which need to be created and managed within that context.

4.2 Implement an approach that is endorsed by the authority that commissioned the QAC.

4.3 Formally assign responsibility for recordkeeping activities to the secretariat.

4.4 Implement recordkeeping systems which are secure from unauthorised access, damage and misuse.

4.5 Implement a process to ensure records are created, stored and maintained systematically.

4.6 Full and accurate records must be made and kept for as long as required pursuant to the Queensland State Archives, General Retention and Disposal Schedule https://www.qld.gov.au/gov/schedules/general-retention-and-disposal-schedule-grds

4.7 Relevant documentation generated electronically by the QAC and forwarded to members, will be marked: *Confidential and not for further disclosure.*

5. Disclosing relevant information

5.1 A report furnished, or information made available by the Committee, must be de-identified, unless the provider or recipient of the health service has consented in writing to the disclosure[5].

5.2 A report may identify a provider in the copy of the report given to the provider to enable the provider to comment on the report[6].

5.3 A person who is or was a member of the Committee must not disclose to someone else information acquired by the person as a member of the QAC, other than:

[3] See: s.99(2) of the HHB Act - *Relevant information* means information acquired or compiled by the committee in the exercise of its functions.
[4] This information is based on Information Standard 40: https://www.qgcio.qld.gov.au/products/qgea-documents/548-information/2357-recordkeeping-is40
[5] See: s.83(2) of the HHB Act.
[6] See: s.83(3) of the HHB Act

(a) for the purpose of exercising the functions of a member of the QAC
(b) to members of another QAC if the information is relevant to the functions of the other QAC
(c) to another prescribed patient safety entity under s.85 of the Act
(d) if the person is a *registered health practitioner*[7] - for notifying the Office of the Health Ombudsman about information in relation to a reasonable belief of the person that another registered health practitioner has behaved in a way that constitutes *public risk notifiable conduct*[8]
(e) to comply with a requirement of an *inspector*[9] made of the person under the Act, if the requirement relates to an offence under Part 6, Division 1 of the Act
(f) under a regulation made under s.91 of the Act.

5.4 A person who is or was a Relevant Person for the Committee must not disclose to anyone else information acquired as a Relevant Person, other than:

(a) for the purpose of helping the QAC to perform its functions
(b) to comply with a requirement of an inspector made of the person under the HHB Act, if the requirement relates to an offence under Part 6, Division 1 of the HHB Act.

6. Obtaining consent to disclose an individual's identity[10]

6.1 Consent must be gained from the individual directly and be in writing.

6.2 If the individual has an authorised representative (for example, under an Enduring Power of Attorney), the Committee must be satisfied the representative has the necessary authority. Legal advice should be sought. If there is uncertainty about a individual's capacity, legal advice must be sought.

6.3 Where the information is about a person under the age of 18 years, the person under 18 years of age may be able to agree to the disclosure if they have sufficient maturity.

6.4 The consent must be:

- voluntary
- informed
- specific
- current[11].

6.5 In order for the consent to be valid (even where written consent is obtained), the Committee must give the individual enough information to understand:

- the type of personal information being disclosed
- the purpose of the disclosure
- who will be receiving the information and what it will be used for by the recipient/s
- foreseeable consequences of agreeing to the disclosure.

[7] Registered health practitioner is defined in Schedule 2 of the HHB Act
[8] Public risk notifiable conduct is defined in Schedule 2 of the HHB Act
[9] Inspector is defined in Schedule 2 of the HHB Act
[10] See: s.83(2) of the HHB Act
[11] For further details about each of these dot points, visit: https://www.oic.qld.gov.au/__data/assets/pdf_file/0008/21896/guideline-key-privacy-concepts-agreement-and-consent.pdf

6.6 If the request by the Committee to disclose is too broad, for example, *I agree to the agency using or disclosing my personal information for any purpose,* the consent may not be valid. The level of specificity required will depend on the circumstances:

- the nature of the information
- the proposed use
- the identity of the recipient, including any privacy restrictions and level of accountability.

6.7 The Committee should not seek broader consent than is necessary for the purposes. The Committee must have a clear understanding of the intended use of the information and request for consent accordingly.

6.8 The Committee must tell the individual their consent can be withdrawn, as well as the foreseeable effect of that withdrawal. Where an individual has agreed to the disclosure of their personal information to a third party, withdrawal after the disclosure has taken place will not have any effect on the action already taken, but will have effect on any future action. Withdrawal of consent does not require the Committee to retrieve the information, as its disclosure was lawful at the time it occurred.

6.9 Where an individual wishes to withdraw consent, the Committee must tell the individual how they to do this, and must not create difficult or unnecessarily complex processes that might discourage the individual from doing so.

7. Copying information

7.1 The copying of information is only permitted for the purpose of exercising the functions of the Committee.

8. Destroying information

8.1 Information must only be destroyed in accordance with the Queensland State Archives, General Retention and Disposal Schedule https://www.qld.gov.au/gov/schedules/general-retention-and-disposal-schedule-grds (GRDS).

8.2 The QAC must have the disposal of records endorsed by the authority that commissioned the QAC. For example, the Director-General, or the Chief Executive, or the licensee of a private health facility, or an authorised person of the entity that established the QAC - whichever position is relevant.

8.3 Disposal documentation should provide sufficient evidence that the disposal took place in accordance with the GRDS. At a minimum, disposal documentation should include:

- evidence of disposal authorisation in the GRDS current at the time of disposal
- a description of the records and date range
- evidence the disposal was properly approved, e.g. an email from the Chief Executive or authorised person
- if the records are destroyed, evidence of how this occurred, e.g. a certificate specifying the method, place and date of destruction and details of the staff or contractor who carried out the destruction.

8.4 When destroying records, QACs should assess the sensitivity of the records and, where appropriate, use methods that completely destroy the records beyond any possible reconstruction[12].

Relevant legislation

Hospital and Health Boards Act 2011

Hospital and Health Boards Regulation 2012

Information Privacy Act 2009

Supporting documents

General retention and disposal schedule (GRDS) authorised under s.26 of the *Public records Act 2002* for the disposal of common and administrative public records created by all Queensland Government agencies.

[12] Refer to: Information Standard 31, https://www.qgcio.qld.gov.au/products/qgea-documents/548-information/2360-retention-and-disposal-of-public-records-is31