

Drug and Alcohol Court

Queensland Drug and Alcohol Court Information Sharing Guidelines

Document details	
Security Classification	Public Domain
Version	v.02
Issue date	26 October 2021
Document Status	Final
Authority/Approval	Department of Justice and Attorney General

Queensland Drug and Alcohol Court

Queensland Drug and Alcohol Court (QDAC) commenced operation in Brisbane on 29 January 2018 following a comprehensive review to ensure the drug court model for Queensland is evidence-based, cost-effective, and reflects contemporary best practice in addressing drug-related offending.¹

QDAC is a specialist court established under the *Penalties and Sentences Act 1992* (PSA) that provides an intensive and targeted response to adult offenders with severe drug and/or alcohol use directly associated with their offending. The QDAC Program involves adult offenders being sentenced to a treatment order that is administered by a multi-disciplinary team consisting of the following treatment order agencies ('the QDAC agencies'):

- Department of Justice and Attorney General (DJAG),
- Queensland Corrective Services (QCS),
- Queensland Health Services,
- Legal Aid Queensland (LAQ) and
- Queensland Police Service (QPS)²

QDAC agencies separately or in combination may engage with a service provider relevant to a participant's treatment and support needs, such as residential rehabilitation facilities, accommodation, domestic and family violence services, and education and training services.

Sharing treatment order information is permitted between service providers and agencies.³

Prior to, and as part of, a person's participation in QDAC, QDAC agencies collect relevant personal information about the person. The sharing of this personal information and treatment order information – in the circumstances outlined in these guidelines – is key to the effective, coordinated response of the QDAC as a multi-agency, multi-disciplinary program to support the person to achieve the purposes of a treatment order. Sharing of the information includes using an appropriate service provider's electronic case management database to effectively administer the treatment order.

The purposes of a treatment order are to:

- facilitate rehabilitation through judicial supervision and therapeutic, integrated treatment,
- reduce the person's severe substance use disorder,
- reduce the level of criminal activity linked to the severe substance use,
- reduce the health risks associated with the severe substance use, and
- assist with the offender's integration into the community.⁴

A treatment order may only be made with the person's consent and only once the court has explained the purpose and effect of the order including any impacts on the person's right to privacy.⁵

¹ The Queensland Drug and Specialist Courts Review: Final Report – November 2016

https://www.courts.qld.gov.au/data/assets/pdf_file/0004/514714/dc-rpt-dscr-final-full-report.pdf

² section 151B PSA

³ Section 6C *Justice and Other Information Disclosure Act 2008* (JOIDA)

⁴ section 151C(2) PSA

⁵ Ss151I and 151J PSA

Purpose of these Guidelines

These information sharing guidelines are intended to ensure:

- information is shared between QDAC agencies and service providers for treatment order purposes;
- the privacy of individuals is respected to the greatest extent possible when sharing information under these guidelines, while ensuring each agency or service provider has enough information to enable the agency or service provider to administer a treatment order effectively; and
- information shared under these guidelines is properly used, stored, kept and disposed of.

Application of these Guidelines

These information sharing guidelines apply to QDAC agencies and service providers engaged by those agencies for one of the below specified purposes under the PSA or the *Justice and Other Information Disclosure Act 2008* (JOIDA).

Human Rights considerations

Queensland public sector bodies have an obligation under the *Human Rights Act 2019* (HR Act) to give proper consideration to and ensure compatibility with protected human rights.⁶ Whilst limitations on information privacy rights may be authorised in legislation, public sector organisations must also ensure that decisions or actions to either share, or not share, personal information within the authorising legislative environment, are aligned to the legislative purpose and any limitations on information privacy rights are reasonable, necessary and proportionate, to ensure compatibility with human rights under the HR Act.⁷

The guidelines are aligned to the legislative purpose of the multi-agency administration of treatment orders under the PSA. The guidelines engage the human rights of individual privacy and reputation⁸ and freedom of expression⁹. The guidelines act as a safeguard to ensure appropriate limitations to these engaged human rights, through the sharing of individual participants' information, are reasonable, necessary and proportionate.

The guidelines are compatible with human rights¹⁰ as they:

- encourage the responsible sharing and protection of personal information between QDAC agencies, as necessary for the effective administration of the treatment order;
- ensure that only necessary personal information is shared to achieve the legislative purpose;
- encourage effective processes to be in place to protect shared personal information; and
- encourage the selection of information sharing options with the least harm to information privacy rights.

⁶ section 58 of the *HR Act*

⁷ section 13 of the *HR Act*

⁸ section 25 of the *HR Act*

⁹ section 21 of the *HR Act*

¹⁰ section 58 of the *HR Act*

Information Sharing by consent

Prior to the creation of a treatment order, personal information about an individual may only be shared between treatment order agencies and service providers with the individual's consent, unless otherwise authorised by legislation or any other permitting authority.

The key processes that require information sharing prior to the creation of a treatment order are the eligibility and suitability assessment processes.

In addition to the broad consent obtained by the court, persons going through the QDAC program also sign a specific written consent allowing personal information to be stored in an appropriate service provider's database and accessed by the QDAC agencies.

What are the purposes for which information is shared?

Information is shared for the following purposes¹¹:

- To assess a person's eligibility and suitability for a treatment order;
- To prepare for a meeting of the review team for the person's treatment order;
- To attend, or arrange the attendance of the person or another person, at a meeting of the review team for the person's treatment order;
- To record and give effect to a court decision made in a proceeding relating to the person's treatment order;
- To use the criminal history of the person to the extent the agency is authorised to use the criminal history of the person;
- To administer, or assist in administering, the treatment order;
- To provide for the effective supervision of the person while the treatment order applies to the person;
- To provide for the safety and welfare of the person or someone associated with them;
- To provide for, or to consider the need to provide for, the safety and welfare of an individual (or someone associated with that individual) employed or engaged by the receiving agency who may be in contact with the person; and
- For research purposes by a qualified person – resulting in de-identified information only.

Collection and sharing of information

The QDAC agencies undertake information sharing collaboratively to support and achieve the purposes of treatment orders.

Each agency and service provider complies with their obligations under the following legislation, in collecting and sharing a person's information, as well as obligations under legislation specific to their agency or area:

- *Justice and Other Information Disclosure Act 2008* (JOIDA)
- *Penalties and Sentences Act 1992* (PSA)
- *Human Rights Act 2019* (HR Act)
- *Information Privacy Act 2009* (IP Act)
- *Public Records Act 2002* (PR Act)

¹¹ S.151L PSA and ss.6B, 6C and 6D JOIDA

Information sharing by and with treatment order agencies and service providers is permitted by two key mechanisms:

- Part 2A, and ss.14 and 15 of JOIDA¹²; and
- the informed consent of the individual concerned.

Which mechanism is required depends on the nature of the information being shared and whether or not the person concerned is currently under a treatment order.

Information sharing may also be permitted by:

- the IP Act; and
- any other relevant legislation, or other permitting authority.

What type of information is shared?

The types of information shared includes:

- court event information
- basic personal information (i.e. name, address, DOB, gender)
- whether the individual does or does not meet the criteria for a severe substance use disorder
- criminal and traffic history
- the details of any charges
- substance use and any related diagnoses, including history of treatment
- medical needs or issues and any previous treatment
- current accommodation and related needs
- education and employment history and related needs
- domestic violence risk assessment
- past and present involvement with any other court orders or programs or treatment and support services
- interests
- financial circumstances and related needs
- citizenship status
- family and relationships and related needs
- information regarding attendance at program activities and service providers
- information regarding progress and engagement with program activities and service providers
- drug and alcohol testing and monitoring results
- progress and final reports regarding participant progress and engagement
- attendance and engagement with program activities and service providers
- adherence and non-adherence to treatment order conditions
- any new charges
- changes in a participant's circumstances where relevant to the administration of the treatment order.

¹² Part 2A – Disclosure of treatment order information. Section 14 – Disposal of information by receiving agency. Section 15 – Misuse of information made available under this Act.

Information Privacy Principles

The IP Act requires all Queensland government agencies (other than health agencies; and law enforcement agencies on reasonable grounds)¹³ to comply with Information Privacy Principles (IPPs). The IPPs provide a set of obligations regarding personal information.¹⁴ The IPPs broadly cover the collection, storage and security, provision, access and amendment, accuracy and relevance, and the use and disclosure of personal information.

Queensland government agencies have a responsibility to take all reasonable steps to bind service providers who handle personal information, to comply with the IPPs.¹⁵ QDAC agencies should take all reasonable steps to ensure that service providers engaged for services related to treatment orders, are bound to comply with the IPPs or required to comply with information privacy obligations by way of their service agreements.

In particular, IPP 10 and IPP 11 are relevant to the use and disclosure of information, namely:

- IPP 10 limits the use of personal information to the original purpose for which it was collected; and
- IPP 11 prohibits an agency from disclosing personal information unless an exception applies or it is used or disclosed for the original purpose for which it was collected (and the individual was reasonably likely to be aware of that disclosure practice).

Impacts on privacy rights are necessary for the administration of a treatment order¹⁶. The court is obliged to explain the impacts on a person's privacy rights and obtains the agreement of the person, including the privacy impacts before the making of the treatment order. This explanation will include making the person aware that the person's personal information is likely to be disclosed to QDAC agencies and service providers for the purposes of preparing suitability assessment reports and administering treatment orders.¹⁷

Storage, retention and disposal

The storage, retention, and disposal of any information collected or used by QDAC agencies is governed by:

- the [Queensland Government retention and disposal schedule under the PR Act](#);
- [section 14 JOIDA](#);
- [the Queensland Government's information governance policy, and information principles and standards](#)
- [the IP Act](#)
- any other relevant legislation, internal agency policy and procedure, or other authority.

Treatment order information will be securely stored:

- at the Level 4, Brisbane Magistrates Court QDAC offices;

¹³ sections 27 and 29 IP Act

¹⁴ section 27 IP Act

¹⁵ section 35 IP Act. The agency entering into a service arrangement must take all reasonable steps to ensure that the contracted service provider is required to comply with the IPPs, as if they were the agency.

¹⁶ section 151I PSA

¹⁷ Disclosure under IPP11(1)(a) is therefore permitted. Further the person has agreed to the disclosure by agreeing to the making or consideration of making of a treatment order (ss.151J, 151K PSA), permitting disclosure under IPP11(1)(b).

- by the court registry;
- at the Legal Aid Queensland office;
- in the electronic case management database; and /or
- in agency-specific databases.

This information may include:

- partially complete or complete QDAC reports or forms;
- records of observations or assessments;
- records of interactions with or about a participant;
- any other document produced, in order to accomplish a treatment order purpose; and/or to undertake evaluation and monitoring activities.

Each storage location will be kept secure with access limited to persons with a genuine need to access the treatment order information.

Storage, retention and disposal of personal information by service providers will be governed by either the IPPs or other requirements, as specified by the terms of their service agreement with the relevant agency.

Contact information

For more information on these Information Sharing Guidelines, to make a request for information or to register a complaint in regard to the treatment of information please contact:

Operations Manager
Queensland Drug and Alcohol Court
Department of Justice and Attorney-General

Court address: Level 4, Brisbane Magistrates Court

363 George Street

Brisbane QLD 4000

Postal address: GPO Box 1649
Brisbane Qld 4001

Phone: 07 3738 7111

Email: drugandalcoholcourt@justice.qld.gov.au