

POLICY STATEMENT

NUMBER:

TITLE:

Information Privacy

SECTION AND POSITION:

Governance and Community Services

RELEVANT LEGISLATION:

Information Privacy Act 2009
Right to Information Act 2009

PURPOSE:

To outline the obligations on Council employees and contractors to ensure:

- Privacy of personal information is deliberately and appropriately managed.
- Council complies with the personal Information Privacy regulations.

SCOPE:

This policy applies to:

1. All Council employees and Councilors – this includes all permanent employees (office or field based), part-time staff and other staff as approved by the Chief Executive officer.
2. All service providers from 1 July 2010 that have contracts that involve dealing with personal information - collection, use, storage (including disposal), or disclosure.

PREAMBLE:

The *Information Privacy Act 2009*, Qld (IP Act) and *Right to Information Act 2009* (RTI Act) came into effect on the 1 July 2009. For the first time, Local Government in Queensland is subject to information privacy laws.

The IP Act contains two sets of rules. The first set is about how individuals can access and amend their own personal information. These rules apply to Local Government from 1 July 2009, and are set out in Chapter 3 of the IP Act. Similar rules exist in Chapter 3 of the RTI Act.

The second set of rules is about how personal information must be managed. These rules apply to Local Government from 1 July 2010, and are set out in Chapter 2 and Schedule 3 of the IP Act. There are three components:

1. Eleven Information Privacy Principles (IPP's) that regulate how personal information is:
 - Collected
 - Stored
 - Used
 - Disclosed to others
 - Disposed of

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2. A series of principles that govern transfer of personal information outside of Australia.
3. Mandatory requirement from the 1 July 2010, that Local Government agencies bind contractors and service providers to the privacy principles contained in the IP Act. Council must have documented service agreements in place with service providers who will deal with personal information either on behalf of Council, from Council or via a third party to fulfill a service contract.

The Act does not affect the provisions of other Acts regulating the disposal of information for example the *Public Records Act 2002*.

Council has appointed the Manager of Corporate Governance as the Council privacy contact officer who is responsible for facilitating the implementation of the new IP Act, and overseeing practices and processes that ensure Council continues compliance with the new regulation.

DEFINITIONS:

Personal information

Is any information about an individual, which allows their identity to be reasonably determined. It is defined in the IP Act *'as information or an opinion, including information or an opinion forming part of a database, whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can be reasonably ascertained from the information or opinion.*

Examples include:

- A persons name and address
- Signature
- Email address
- Date of birth
- Drivers licence number or details
- Unlisted phone numbers
- Physical characteristics such as height, tattoos, birthmarks and psychological profiles.
- Sensitive information such as political beliefs, medical records, disabilities or sexual preferences

An **individual** is a natural person. Information about a company or someone deceased is not regarded as personal information. Information generally available to the public (magazines, newspapers, annual reports etc) is not considered personal information.

Agreement means the clauses contained in a service agreement or contract document, including attached schedules and annexure.

Council means Central Highlands Regional Council.

Employee means all employees in the Central Highlands Regional Council, and includes all permanent (office and field based) staff, part time staff, and

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other staff as approved by the Chief Executive Officer. It includes Councilors and volunteers, work experience, apprentices and trainees.

Grantee means the service provider or contractor providing services to Council under the Agreement

IP Act means the *Information Privacy Act 2009 (Qld)*.

Person for the purposes of this policy means an individual as defined above.

RTI Act means the *Right to Information Act 2009 (Qld)*.

We for the purposes of this policy, means Council and its employees.

PRINCIPLES:

Council regards the security of personal information relating to all of our customers and employees as paramount. The following principles are to be applied:

- All staff are responsible for ensuring that Council continues to comply with the *Information Privacy Act 2009* in the conduct of its business.
- All staff will take all reasonable steps to manage the privacy of personal information – protect it from misuse, loss, and unauthorized access, modification and disclosure.
- All staff will make themselves aware of Councils Information Privacy Plan and the information privacy principles.

POLICY:

1. **We will only collect personal information:**

- c) If it is relevant and required for a lawful purpose relating to Council business function and service activity.
- d) The method/s we use are lawful, fair, and not overly intrusive.

Council employees will not take photographs of individuals unless:

- The employee has been delegated law enforcement powers by Councils Chief Executive Officer, and the particular legislation allows them to undertake such an activity.
- Council has verbal consent first from the individual.
- If the individual is a child, then we will seek written consent from the legal guardian. Councils media consent form will meet this requirement.

2. **When we collect personal information:**

- c) We will let the person providing the information know:
 - i) the reason the information is being collected,
 - ii) the law (if any) requiring the collection
 - iii) who the information may be disclosed to (if any).

This will include providing a privacy statement on our data collection forms that collect personal information.

The privacy statement will address (i), (ii) and (iii).

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The privacy statement will be of the following form:

- a) If the data collection form does not identify the particular authorizing legislation somewhere else on the form, then:

Privacy Statement

The collection of this information is authorized under [insert relevant legislation]. This information will be used for the [insert purpose]. Unless authorized or required by law, your personal information will not be disclosed to any third party without your consent. More information about privacy management in the Central Highlands Regional Council is available on our website.

- b) If the data collection form does identify the authorizing legislation somewhere, a statement to the following effect will be acceptable:

Privacy Statement

Council is collecting this information in order to comply with its responsibilities and obligations as a Local Government. The information will only be used by Council Officers or Agencies, which may have a legitimate need for the information to process applications or the like. Unless authorized or required by law, your personal information will not be disclosed to any third party without your consent. For more information about privacy in Central Highlands Regional Council, see our Privacy Plan on our website.

- d) We will use a data collection method that is appropriate for the circumstance, however all reasonable steps will be taken to inform the person at the time the information is collected, why we are collecting the information and how we will use it and protect it. If this is not practical, Council will inform the individual as soon as practical after the collection. A possible exception where this may not apply is if Council is responding to and involved in delivering an emergency service.
- e) We will take reasonable steps to check that the information is accurate, complete and up-to-date before it is used.
- f) If an identity check is required, we will not photocopy driver's licences, pension cards or passports, or other personal documents and hold any copies as a paper or electronic record unless required to do so by a particular piece of legislation. We will satisfy ourselves of the identity of the person by using a form that verifies we have sighted what is considered suitable and sufficient documentation to verify a person's identity. We will hold this form as a record.

3. We will protect personal information records from:

- Unauthorised access
- Inappropriate use
- Inappropriate modification
- Inappropriate disclosure
- Loss

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- All staff will take individual responsibility for securing documents which contain personal information – both hard copy documents and personal information held on electronic devices - computer networks, portable computers, and portable storage devices (including USB drives hard disk drives and mobile phones). Business unit Managers will monitor their business unit activities to ensure information records and storage devices are secure.
 - We will not create multiple copies of personal information by way of photocopies or electronic files unless by law we are required to do so.
4. **We will not use personal information for a different purpose unless:**
- a) the person the information is about has consented to the use
 - b) the use is directly related to the purpose of the collection
 - c) the use is required or authorized by law
 - d) the use will prevent a serious or imminent threat to life or health, or safety of an individual or the public
 - e) the use is necessary to enforce the law or protect public revenue

This means if we have collected personal information for one purpose within Council, we will not use it for another purpose without the consent of the person the information relates to, or we are authorized to do so by law.

5. **We will not disclose personal information externally unless:**
- a) the person the information is about has consented to the use
 - b) the person was made aware of the intended disclosure at the time the information was collected or has been contacted again and provided written consent to the intended disclosure
 - c) the use is required or authorized by law
 - d) the use will prevent a serious or imminent threat to life or health, or safety of an individual or the public
 - e) the use is necessary to enforce the law or protect public revenue

2. **Complaints**

- a) All complaints relating to possible breaches of privacy or concerns about privacy are to be reported immediately to the Manager of Corporate Governance, or the Chief Executive Officer.

3. **Service providers, Consultants and Contractors**

If Council is engaging a service provider or entering into a service agreement that involves dealing with personal information, then Council will:

- a) ensure the service provider (the Grantee) is aware of the requirements of the Information Privacy Act 2009
- b) insert a privacy deed or schedule into the contract, relating to privacy and disclosure of personal information
- c) require the service provider to sign and acknowledge this privacy deed
- d) the preamble to the service agreement will clearly indicate the Agreement or Contract includes the Privacy Schedule

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An acceptable privacy deed is outlined in Schedule 1.

8. **Web Content and Privacy Information**

Council's web page will contain statements about privacy and refer to our Privacy Plan. This information will be less than three clicks from our home page.

ADOPTED: 21st June 2010

AMENDED:

DUE FOR REVISION: June 2011