

Organisational policy

Information Privacy

Corporate Plan reference	An Outstanding Organisation Service Excellence	
Endorsed by Chief Executive Officer	Emma Thomas	09/12/2021
Manager responsible for policy	Branch Manager, Corporate Governance, Office of the CEO	

Policy statement

Sunshine Coast Council (Council) is committed to managing and protecting the personal information of individuals in accordance with the [11 Privacy Principles](#) outlined in the *Information Privacy Act* (the **IP Act**).

The IP Act places obligations on Council, including the need to comply with the 11 privacy principles, the conditions under which personal information may be transferred outside of Australia, and the rules regarding contracted service providers. The IP Act also creates a right for individuals to access and amend their personal information.

Further to this, the right to privacy and reputation is included in the *Human Rights Act 2019* (the **HR Act**) and Council recognises and is committed to act compatibly with this right to privacy and reputation under the HR Act.

This policy is further supported by guidelines which must be complied with in accordance with this policy.

Policy scope

The policy applies to all the following:

- The Mayor, Councillors, Chief Executive Officer (CEO), Directors, Managers, employees, contractors, work experience students, apprentices, volunteers, consultants, contingent workers, vendors, contracted external service providers and outsourced business functions who handle personal information on behalf of Council.
- All personal information, collected, stored, used, and disclosed by Council, regardless of format, medium and source, unless otherwise exempted by legislation.
- All administrative and technological environments in which Council's business is conducted.
- Information systems regardless of whether manual or automated.

Principles

The principles that guide the application of this policy are:

Council will-

- collect, use, disclose, amend, provide access, store, and secure personal information in accordance with the IP Act and the 11 IPP's. Refer to Appendix 2 for further details.
- educate and inform employees and the community about protecting personal information under the *Information Privacy Act 2009* and the right to privacy and reputation under the *Human Rights Act 2019*.
- apply the 11 IPPs as an integral part of its business processes
- ensure [privacy impact assessments](#) are considered as an integral part of the planning and risk management processes for information management systems and information collection
- ensure all privacy breaches and complaints are contained, assessed, notified, and reviewed in accordance with the IP Act
- ensure any personal information transferred outside of Australia is in accordance with IP Act s33.
- ensure all contracted service providers are bound by the same rules and regulations under the IP Act that bind Council in relation to the handling of personal information. (Refer to Chapter 2, Part 4)

Policy Application

In accordance with the Act, Council gives an individual the right to make application to access and request amendments to their personal information. Requests for access are made either via a Right to Information and Information Privacy access application or are made via a formal Council administrative access scheme.

An individual may make a complaint to Council when the individual believes that Council has not dealt with their personal information in accordance with legislation. The Act allows a minimum of 45 business days for Council to respond and/or to resolve the subject matter to the satisfaction of the individual.

Council investigates complaints from individuals who consider that the Council has not fulfilled its legislative obligation. The investigation is managed in accordance with Council's [Administrative Action Complaint Management Policy](#). If an individual is dissatisfied with the outcome of a privacy complaint investigation, the individual can refer their complaint to the Office of the Information Commissioner (OIC).

An individual may seek referral of their privacy complaint to the Queensland Civil and Administrative Tribunal (QCAT) if the OIC considers that resolution of the complaint is not reasonably likely to be achieved through mediation.

Measurements of success

The success of this policy will be measured by:

Measure:	Desired effect:
Applications for access to personal information administered within the prescribed timeframes.	Greater and easier access to information by the public in a timely manner.
The increase in awareness and application of IP and the Privacy Principles through the conducting of training, information, and awareness sessions.	The protection of individual's private information in the provision of Council' services.
A decrease of formal access applications under the RTI Act and IP Act relative to other release mechanisms	Council making more information easily accessible by undertaking the push model of information.

Policy commitment

Council employees and Councillors covered in the scope of this policy consistently demonstrate and uphold the intent, objectives and principles of this policy. Nothing in this policy requires or authorises an employee of Council or Councillor to act in any way that is contrary to law. Any instances of non-compliance will be managed in accordance with any relevant codes of conduct, policies and legislation dealing with conduct and/or disciplinary action.

Related legislation, policies, strategies and documents

All individuals engaged in dealings within the scope of this policy are required to fulfil the ethical and behavioural obligations as defined in legislation. In the event of an inconsistency between any provision of this policy and any provision of the following related legislation, policies, strategies and documents, the provisions of the related legislation, policies, strategies and documents shall prevail, unless the CEO or Council expressly waive a provision of this policy by prior agreement. For further assistance please contact the Manager of Corporate Governance.

Human Rights Act 2019

Information Privacy Act 2009

Local Government Act 2009

Public Records Act 2002

Right to Information Act 2009

Spam Act 2003 (Cth)

Invasion of Privacy Act 1971

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Review of department names and position titles	Y	Corporate Governance	14/03/2014
2.0	Administrative Review	Y	Corporate Governance	9/08/2018
3.0	Review	Y	CEO	09/12/2021

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Appendix 1 - Definitions

Access refers to an application for access to personal information under the *Information Privacy Act Act 2009*.

Collection Gathering, acquiring, or obtaining personal information from any source and by any means.

Consent In relation to information privacy means a voluntary agreement (express or implied) to some act or practice which impacts an individual's personal information. An individual must be adequately informed before giving consent and must have the capacity to understand and communicate their consent.

Disclosure Personal information is disclosed to an external person or entity if:

- that person/entity does not know the personal information and is not in a position to otherwise find it out and,
- the personal information is provided to the person/entity or placed in a position to enable them to find it out; and
- Council ceases to have control over personal information provided to the external person/entity (Section 23, *Information Privacy Act 2009*).

Information is any data that is processed, organised, or classified into categories to serve a useful purpose. It can be presented in voice, digital, printed, pictorial, image, graphical or numerical form.

Information Privacy Principles the [11 Principles](#) that set out how Queensland Government agencies should collect, use, store, secure, and disclose personal information.

Personal information: [Personal information](#) is an opinion or information, whether true or false, that identifies or could identify an individual. It does not have to be written down – it could be spoken information, information in a database or on a computer screen, or a photograph or video recording.

Examples of personal information are:

- *date and place of birth*
- *religious or political beliefs*
- *financial, criminal, or medical records*
- *family arrangements*
- *street address, telephone number and email address*
- *where a person works or goes to school.*

Depending on the type of information and the context, the information or opinion does not have to include the name of an individual to be personal information.

Public record means, as per the *Public Record Act 2002*, any documents created, received, or kept by Council in the exercise of its statutory, administrative, or other public responsibilities or for a related purpose. Council public records are the same as corporate records.

Use Information Privacy Act 2009

Section 23 What it means to disclose personal information and to use personal information

(3) An entity [Council] uses personal information if it

- (a) manipulates, searches, or otherwise deals with the personal information; or
- (b) takes the information into account in the making of a decision; or
- (c) transfers the information from a part of the entity having functions to a part of the entity having different functions

(4) Subsection (3) does not limit what actions may be use of the personal information.

(5) However, use of the personal information does not include the action of disclosing the personal information to another entity.

Appendix 2 – Information Privacy Principles obligations

Council manages the personal information it holds in accordance with the IPPs contained within the IP Act.

There are 11 IPPs in the IP Act. The IPPs cover the following:

- Collection of personal information (IPPs 1, 2, 3)
- Security of personal information (IPP 4)
- Information about personal information holdings (IPP 5)
- Access and amendment of personal information (IPPs 6, 7)
- Use of personal information (IPPs 8, 9, 10)
- Disclosure of personal information (IPP 11)

A summary of Council's obligations under the IPPs is included below. The full text of the IPPs is available in schedule 3 of the IP Act.

<p>IPP 1-3</p> <p>Collection of personal information</p>	<ul style="list-style-type: none"> • These apply where Council requests personal information from a person. Council will give notice to individuals about why their personal information is being collected, any authorities under which it is collected and to whom the information is usually disclosed. • Council's branches decide what level of information is appropriate to be collected on a case by case basis with the understanding that only the information that is necessary for the particular purpose should be collected. • Council includes appropriate privacy collection notices on all forms that collect personal information and provides privacy collection information to individuals who make contact via customer service.
<p>IPP 4</p> <p>Storage and security of personal information</p>	<ul style="list-style-type: none"> • Personal information must be stored securely to prevent loss or misuse. Council takes a proactive and preventative approach to ensure that personal information is held securely, and access is only available to Councillors and Council employees to enable them to conduct the required tasks of their role. • Council is required by legislation to keep and maintain proper records of its activities. To ensure recordkeeping compliance Council is committed to meeting its responsibilities under the Financial Performance Management Standard 2009, the Public Records Act 2002 and the Queensland Government Information Standards. All records are kept according to Council's Records Retention and Disposal Schedule, approved by Queensland State Archives.
<p>IPP 5-7</p> <p>Access to and amendment of personal information</p>	<ul style="list-style-type: none"> • The IP Act provides for a right of access to, and amendment of, personal information in Council's possession or under its control, unless, on balance, it is contrary to the public interest to give the access or allow the information to be amended. • In accordance with IPP 6, Council has an Administrative Access Policy to manage routine requests for a person's own personal information, such as licence and registration information. • If the information is not able to be released under an administrative release process, the IP Act provides a formal mechanism under which an individual can apply to access their own personal information. A formal access application can be made via an online application form which is located on the Right to Information (RTI) website, http://www.rti.qld.gov.au • Council may decide to refuse access to certain types of information, either because the legislation states it is exempt information or because releasing it would be contrary to the public interest. • IPP7 requires Council to take all reasonable steps to ensure the accuracy of personal information in its possession or control. • The IP Act provides a formal mechanism under which an individual can apply to have their personal information amended. A formal amendment application can

	<p>be made via an online application form which is located on the Right to Information (RTI) website, http://www.rti.qld.gov.au</p> <ul style="list-style-type: none"> • If Council is satisfied that personal information in a document is out of date, inaccurate, incomplete or misleading, it may amend the document either by altering the information or adding a notation to the personal information.
<p>IPP 8-11</p> <p>Use and disclosure of personal information</p>	<ul style="list-style-type: none"> • Personal information is valuable, and its loss, inappropriate use or unintended disclosure can have significant consequences for the individual. • IPP 8 and 9 require Council to ensure the accuracy of personal information before using it, and to only use the parts of personal information that are directly relevant to fulfilling the particular purpose. • IPP10 limits how Council may use the personal information it holds for another purpose, such as with the individual's consent or for health and safety or law enforcement reasons. In most circumstances, Council will only use personal information for the purpose it was collected. • IPP11 sets out when Council may disclose personal information to someone else, for example another government agency. This can only be done in special circumstances, such as with the individual's consent, or where a legal authority exists or for some health and safety or law enforcement reasons.