

PROCEDURE – ADMINISTRATION

Privacy Statement

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1. Document control

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Electronic version on the intranet or website is the controlled version.

2. Purpose

This is a statement including the reasons for the procedure. It may include a brief policy statement if not in a separate policy document.

The City of Onkaparinga (the Council) is committed to maintaining a culture that respects an individual's right to privacy versus the requirement to share information in the interest of safety and wellbeing.

Currently there is no privacy legislation which applies to councils in South Australia to regulate the way personal information is managed.

The Privacy Statement has adopted principles and approaches from:

- the Commonwealth Privacy Act 1988;
- Previous Ombudsman’s findings in relation to Freedom of Information Request reviews; and
- The Department of the Premier and Cabinets’ Information Privacy Principles (IPP) Cabinet Administrative Instruction.

This procedure is an internal control to promote best practice and good governance.

3. Scope

This procedure applies to the management of personal information held by the Council. It excludes information sharing for promoting safety and wellbeing, which is contained in Council’s Information Sharing for Promoting Safety and Wellbeing Procedure.

It is acknowledged that Acts and Regulations take precedence over this procedure.

4. Definitions

Access	Providing to an individual, information about himself or herself that is held by the Council which may include an individual inspecting their personal information held or to obtain a copy.
Collection	Gathering, acquiring or obtaining of personal information from any source and by any means, including information that Council has come across by accident or has not asked for.
Consent	Voluntary agreement to some act, practice or purpose.
Disclosure	Release of information to persons or organisations outside the Council. It does not include giving individuals information about themselves.
Personal information	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 a natural living person whose identity is apparent, or can reasonably be ascertained, from the information or opinion, including a photograph or other pictorial representation of a person, but does not include information that is in: <ul style="list-style-type: none"> • available publications; or • material kept in public records and archives such as the Commonwealth or State archives; or • anything kept in a library, art gallery or museum for reference, study or exhibition.
Sensitive information	Information or an opinion that may give rise to discriminatory practices based on an individual’s: <ul style="list-style-type: none"> • Racial or ethnic origin; • Political opinions; • Membership of a political association, a professional or trade association or a trade union;

	<ul style="list-style-type: none"> • Religious beliefs or affirmations • Philosophical beliefs; • Sexual preferences or practices; • Gender; • Criminal record; or • Health
TFN Notifiable data breach	<p>Councils are subject to the Notifiable Data Breach Scheme (NDB) under the Privacy Act 1988.</p> <p>A TFN data breach happens when personal information is accessed or disclosed without authorisation or is lost. If the Privacy Act 1988 covers your organisation or agency, you must notify affected individuals and us when a data breach involving personal information is likely to result in serious harm.</p>

5. Procedure

5.1 COLLECTION OF PERSONAL INFORMATION

In accordance with the Local Government Act 1999, all personal information collected by the Council is used only for conducting council business and in the provision of Council services to its residents and/or rate payers

The type of personal information that is collected and held by Council includes, but is not limited to:

- Name and address
- Contact details (phone numbers and email addresses)
- Date of birth and/or age
- Property ownership and/or occupiers' details
- Details of residents/ratepayers' spouse or partner or family members
- Health and disability information
- Dog ownership
- Electoral roll details
- Pensioner/Concession information
- Payment history, financial information, including bank account details
- Library membership details

Personal information may be collected directly from a person via documents such as application forms, statutory declarations, emails, internet marketing material, Council website, social media or face-to-face contact (not intended as an exhaustive list). In some circumstances the Council may collect personal information from a third party such as government bodies, conveyancers, neighbours or other community members.

Where possible, the purpose for collecting personal information is made clear, for example, development applications, dog registrations, permit and licence applications. Where the reason is not clear if possible an explanation will be given.

Council also collects information as authorised and required under legislation. This information is used for the purpose of conducting council functions and providing council services. Council also holds personal information which it is lawfully required to make public.

Council employees, volunteers or persons applying for roles will have their personal information collected. It is used for recruitment, employment administration, workers compensation, payroll administration, statistical reporting and meeting Council's legislative obligations.

Council's website contains links to other websites. It should be acknowledged these links are provided for convenience only and the other websites' information handling practices may differ from that of Council.

For further details about privacy information collected via [Council's website](#).

5.2 USE OF PERSONAL INFORMATION

In the use of personal information, Council assumes that:

- Any personal information provided by residents and/or ratepayers is free from errors and omissions, is not misleading or deceptive and
- Residents and/or ratepayers have the necessary authority to provide any personal information submitted to Council.

Council will only use personal information in its possession for the intended purpose unless:

- Permission is gained to use it for another purpose (reasonable steps to obtain permission from the subject will be undertaken)
- It is necessary to information share for promoting safety and wellbeing
- It is required and authorised by law
- It is reasonably necessary for the enforcement of criminal law or law imposing a financial penalty.

Council will endeavour to assemble and record personal information in good faith, but cannot guarantee that it will necessarily involve a considered review of the information. It is the responsibility of persons to provide the Council with details of changes to their personal information.

5.3 DISCLOSURE OF PERSONAL INFORMATION

- Council will not provide personal information it holds on residents and/or ratepayers to third parties unless specifically required to by law and after following relevant consultation requirements except when:

- The person has consented to or made a written request for personal information to be provided to a third party
- The personal information is provided for distributing materials on behalf of the Council
- The third party has been contracted by Council to provide advice or services for assisting the Council
- The Council is required or authorised by law to disclose the personal information to a third party or to the public e.g. extract of dog register
- The person has been advised of Council's usual practice of disclosing personal information to a third party for a particular purpose
- A public consultation submission has been received by Council and is required to be included in a report to a Council meeting (e.g. respondents to a Development Application under the Development Act 1993)
- The disclosure is part of an investigation into unlawful activity, or it is believed a person has engaged or may engage in illegal or serious misconduct
- For surveys to assist with improving services. Information to be masked and de-identified where possible.

5.4 MAINTENANCE AND STORAGE OF PERSONAL INFORMATION

Council will take reasonable steps to protect the personal information it holds from loss, unauthorised access, use, modification, disclosure and other misuse through security measures.

Council will endeavour to maintain its corporate systems to ensure all personal information collected is up to date and accurate.

In the event of a data breach involving Tax File Number (TFN) information, Council will take the following steps:

- Contain the data breach;
- Within 30 days of the event, assess if the data breach is an eligible data breach;
- Take remedial action to prevent future instances of unauthorised access or disclose of TFN information;
- Notify the [Office of the Australian Information Commissioner](#) (OAIC) and affected individuals where there is an eligible data breach; and
- Review the incident, report to other relevant bodies and take preventative action to ensure that a similar incident does not occur again.
- Any person who, on behalf of the Council, uses or discloses personal information held by the Council must have appropriate authorisation to do so.

5.5 ACCESSING OR AMENDING PERSONAL INFORMATION

Persons wishing to access their own personal information can do so by written request to the Council. The person making the request will need to satisfy Council of their identity prior to information being released and may have to pay a prescribed fee.

If a person can show that the personal information held by Council is inaccurate, out of date or incomplete, Council will take the appropriate steps to amend it.

Council cannot accept any responsibility or liability for any loss or damage suffered by a person because of their reliance on any personal information provided to them by Council or because of Council's inability to provide persons with any requested personal information.

5.6 FREEDOM OF INFORMATION ACT 1991

Council may release personal information in accordance with the Freedom of Information Act 1991. An FOI Applicant is required to satisfy Council of their identity, purpose of the request and pay the prescribed fee. In certain circumstances this Act requires Council to consult with a third party prior to the release of 'personal affairs' to obtain their views. Persons have the right to request a review of a decision prior to release of such personal information. If 'personal affairs' are not being disclosed consultation may not be required.

5.7 INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 2012

Council will be obliged to provide information if requested in accordance with the Independent Commissioner Against Corruption Act 2012 and as part of an investigation or examination.

5.8 OMBUDSMAN ACT 1972

Council may be required to provide information in accordance with the Ombudsman Act 1972 (or other legislation which the Ombudsman has powers under) to investigate complaints.

5.9 COPYRIGHT ACT 1968

Documents received by Council may be copyright protected under the Copyright Act 1968. It is an offence for Council to reproduce such documents without the written approval of the copyright owner. Refer to Council's 'Policy on the interaction of the Development Act 1993, the State Records Act 1997 and the Freedom of Information Act 1991 with the Copyright Act 1968' for further information.

5.10 WATER INDUSTRY ACT 2012

Certain information obtained under this Act must be regarded as confidential. Under the third party access regime the regulator of the Act may disclose confidential information to the public if it is in the public interest to do so.

5.11 DISABILITY CLAIMS AND FINANCIAL HARDSHIP APPLICATIONS

Personal information obtained in relation to claims for disability benefits and financial hardship claims will be used solely for the purposes of facilitating the claim to which the personal information relates, unless the person has specifically given permission to Council in writing for it to be used for other applications or to be provided to a third party.

5.12 SUPPRESSION OF PERSONAL INFORMATION

Personal information including name and/or address may be suppressed from Council's Assessment Record and from the Council Voters Roll (via the Australian Electoral Commission), if the Chief Executive Officer is satisfied that inclusion on the assessment

record and/or voters roll would risk the personal safety of a person, a member of their family or any other person.

Enquiries regarding the suppression of personal information should be directed to Council's rates officers on 8384 0666.

5.13 CONTRACT AND TENDER INFORMATION

During procurement processes the Council may receive confidential information from third parties wishing to form contractual relationships with Council for the provision of goods, works and services. In accordance with the Local Government Act 1999 and the Freedom of Information Act 1991, certain contract or tender information may become publicly available. Refer to Council's Procurement Policy for further information about disclosure.

5.14 GRIEVANCE PROCESS

Further queries or concerns about Council's management of personal information may be managed under council's Customer Complaint Policy. If the person's concerns cannot be satisfied, the person may lodge a formal complaint in writing to Chief Executive Officer at one of the following

Email: mail@onkaparinga.sa.gov.au

Website: Online Form

Postal Address: PO BOX 1, Noarlunga Centre SA 5168

Civic Centre: Ramsay Place Noarlunga Centre 5168

6. Relevant legislation and references

Copyright Act 1968

Development Act 1993

Freedom of Information Act 1991

Independent Commissioner Against Corruption Act 2012

Local Government Act 1999

Ombudsman Act 1972

State Records Act 1997

Water Industry Act 2012

Commonwealth Privacy Act 1988 (limited to Privacy (Tax File Number) Rule 2015 and Notifiable Data Breaches Scheme and Information Privacy Principles (IPPs) (Cabinet Administrative Instruction).