

PROCEDURE – ADMINISTRATION

Privacy Statement

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1. Document control

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2. Purpose

Council is committed to maintaining a culture that respects an individual's right to privacy versus the requirement to share information when required.

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

This statement has adopted principles and approaches from:

- *Privacy Act 1988* (Cth);
- Information Privacy Principles (IPPS) Instruction; and
- previous Ombudsman’s findings in relation to Freedom of Information request reviews.

3. Scope

This statement applies to the management of all personal information about an individual that is collected, stored, used or disclosed by council. It excludes information sharing for promoting safety and wellbeing, which is contained in council’s Information Sharing for Promoting Safety and Wellbeing procedure.

This statement applies to all people with access to council information including:

- council staff;
- Elected Members;
- volunteers;
- work experience students;
- trainees;
- contractors and consultants.

It is acknowledged that legislation takes precedence over this procedure.

4. Definitions

Access	Providing an individual information about themselves that is held by council which may include an individual inspecting their personal information held or to obtain a copy
Collection	Gathering, acquiring or obtaining personal information from any source and by any means, including information that council has come across by accident or not asked for
Consent	Voluntary agreement to some act, practice or purpose
Council	The City of Onkaparinga
Disclosure	Release of information to persons or organisations outside council. It does not include giving individuals information about themselves
Eligible data breach	The unauthorised access, disclosure or loss of TFN information that is likely to result in serious harm to one or more individuals
File number recipient	Any person who is in possession or control of a record that contains TFN information which includes council as an employer.
Notifiable Data Breach (NDB) Scheme	Councils are subject to the NDB Scheme under the <i>Privacy Act 1988</i> (Cth) to the extent that TFN information is involved in an eligible data breach.

Personal information	Information or 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 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: <ul style="list-style-type: none"> • publicly available; • kept in public records and archives such as Commonwealth or State archives; or • 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; • Religious beliefs or affirmations; • Philosophical beliefs; • Sexual preferences or practices; • Gender; • Criminal record; or • Health
TFN Information	Information that records the Tax File Number (TFN) of a person in a manner connecting it with a person's identity (e.g. name or date of birth).

5. Procedure

5.1 COLLECTION OF PERSONAL INFORMATION

In accordance with the *Local Government Act 1999*, all personal information collected by council is used only for conducting council business and in the provision of council services.

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

- Name and address
- Contact details (telephone numbers and email addresses)
- Date of birth and/or age
- Property ownership and/or occupiers' details
- Details of spouse, partner or family members
- Health and/or disability information
- Dog ownership
- Electoral roll details
- Pensioner/concession information

- Payment history, financial information including bank account details
- Library membership details
- Images and conversations collected by CCTV, body worn cameras or drones.

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 a exhaustive list). In some circumstances, 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, customer service requests, development applications, dog registrations, permit and licence applications. Where the reason is not clear 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 will not collect sensitive information about an individual unless:

- the individual has provided consent;
- the collection is required by law;
- the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any person; or
- the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

If council collects sensitive information about an individual in accordance with the provisions of this statement, council will take reasonable steps to de-identify the information before it is disclosed.

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

Further details about privacy information collected via council's website can be found [here](#).

5.2 USE OF PERSONAL INFORMATION

In the use of personal information, council assumes that:

- any personal information provided by individuals is free from errors and omissions, is not misleading or deceptive; and
- individuals 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:

- consent is gained to use it for another purpose (reasonable steps to obtain consent from the individual will be taken);

- the individual would reasonably expect council to use or disclose the information for another purpose and the other purpose is directly (for sensitive information) or indirectly related (for any other information) to the intended purpose;
- it is necessary to share information for promoting safety and wellbeing in accordance with council's Information Sharing for Safety and Wellbeing procedure;
- it is required and authorised by law; or
- it is reasonably necessary for the enforcement of criminal law or law imposing a financial penalty.

Council will endeavor 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 individuals to provide council with details of changes to their personal information.

5.3 DISCLOSURE OF PERSONAL INFORMATION

Council will not provide personal information it holds 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 council;
- the third party has been contracted by council to provide advice or services for assisting council;
- 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. signatory to a petition presented to Council, respondents to a Development Application);
- 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
- as part of a survey to assist with improving services. Information will be 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 endeavor to maintain its corporate systems to ensure all personal information collected is up to date and accurate.

Council is a file number recipient for the purposes of the *Privacy Act 1988* (Cth). Council has a notification obligation when a data breach is an eligible data breach for the purposes of the NDB Scheme.

In the event of a data breach involving 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 disclosure 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 and 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 council, uses or discloses personal information held by 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 council in accordance with the *Freedom of Information Act 1991* process. Refer to council's website for further information.

If a person can show that the personal information held by council is inaccurate, out of date or incomplete, council will take appropriate steps to amend it. This can be done through an amendment of records application under the *Freedom of Information Act 1991* process. Refer to council's website for further information.

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 1999

Council may release personal information in accordance with the *Freedom of Information Act 1991*. An FOI applicant is required to provide the details outlined on council's website. In certain circumstances, this Act requires council to consult with a third party prior to the release of 'personal affairs' information to obtain their views on the release of such information. Persons have the right to request a review of a decision prior to the 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 Commission 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 (CTH)

Documents received by council may be protected under the *Copyright Act 1968* (Cth). 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 the *Water Industry Act 2012* must be regarded as confidential. Under the third party access regime, the regulator of this 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 the inclusion on the Assessment Record and/or Voter's 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 08 8384 0666.

5.13 CONTRACT AND TENDER INFORMATION

During procurement processes 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 FOI Act, certain contract or tender information may become publicly available. Refer to council's Procurement Policy for further information about disclosure of procurement information.

5.14 GRIEVANCE PROCESS

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

Email: mail@onkaprainga.sa.gov.au

Address: PO Box 1, Noarlunga Centre SA 5168

Civic Centre: Ramsay Place, Noarlunga Centre SA 5168

6. Relevant legislation and references

Copyright Act 1968 (Cth)

Freedom of Information Act 1991

Independent Commission Against Corruption Act 2012

Local Government Act 1999

Ombudsman Act 1972

State Records Act 1997

Water Industry Act 2012

Planning, Development and Infrastructure Act 2016

Privacy Act 1988 (Cth) (limited to Privacy (Tax File Number) Rule 2015 and Notifiable Data Breaches Scheme)

Premier and Cabinet Circular PC012 - Information Privacy Principles (IPPS) Instruction