

POLICY

Policy Name	Privacy Policy
Policy Category	Governance
Department / Officer	Office of Chief Executive Officer/ Governance and Policy Officer
Date Adopted	16 March 2009
Date/s Reviewed	27 October 2014, 27 August 2018, 27 June 2022
Review Frequency	Every Three Years
Strategic Plan Reference	Aspiration 6 – We are a financially sustainable and well-governed organisation
Attachments	Nil

1. Purpose

The purpose of this Policy is to outline Council's position regarding the collection, use, storage and disclosure of and access to personal information, including health information, relating to the personal privacy of past and present Council employees.

2. Scope

This Policy applies to Council Members, Council Employees, Volunteers, and Contractors of the City of Victor Harbor who collect, hold, use or disclose personal or sensitive information.

3. Policy Statement (Summary)

The City of Victor Harbor is committed to a culture that protects the privacy of individuals.

Council recognises residents who provide Council with their personal and private information rightly expect the Council to protect that information against loss, unauthorised access, use, modification or disclosure and against all other misuse.

When dealing with personal information, the Council will adhere to the provisions in this Policy.

4. Legislation and Compliance

The *Privacy Act 1988* and the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* set out requirements that must be followed by Commonwealth Government agencies.

Although Council is not directly subject to the application of the *Privacy Act 1988* on the basis of being a 'State or Territory authority' the Commonwealth may impose obligations on Council to comply with the *Privacy Act 1988* as a requirement of funding and a 'contracted service provider' (refer Australian Privacy Principles (APPs) - Schedule 1 of the Privacy Act 1988).

The *Privacy (Tax File Number) Rule 2015*, set outs the requirements in relation to the security and handling of Tax File Numbers (TFN) and Councils need to notify the Australian Information Commissioner and affected individuals of an eligible data breach concerning TFN information.

It is also the intention of the Council that its policies and practices in relation to privacy should be, so far as is reasonably practicable, consistent with the APPs.

5. Definitions

Access means providing to an individual, information about themselves that is held by the Council. This may include allowing that individual to inspect personal information or to obtain a copy.

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

Consent means express consent or implied consent

Contracted Service Provider, for a government contract, means:

- An organisation that is or was a party to the government contract and that is or was responsible for the provision of services to an agency or a State or Territory authority under the government contract; or
- A subcontractor for the government contract.

De-identification involves removing or altering information that identifies an individual or is reasonably likely to do so eg removing personal identifiers (name, address, Date of Birth or other recognisable characteristics).

Disclosure means making personal information accessible to others outside the Council and releases the subsequent handling of the personal information from its effective control.

Eligible Data Breach means when the unauthorised access, disclosure or loss of Tax File Number information is likely to result in serious harm to one or more individuals.

Enforcement related activity includes:

- The prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction; or
- The conduct of surveillance activities, intelligence gathering activities or monitoring activities; or
- The conduct of protective or custodial activities; or

- The enforcement of laws relating to the confiscation of the proceeds of crime; or
- The protection of the public revenue; or
- The prevention, detection, investigation or remedying of misconduct of a serious nature, or other conduct prescribed by the regulations; or
- The preparation for, or conduct of, proceedings before any court or tribunal, or the implementation of court/tribunal orders.

Expressed Consent means consent that is clearly and unmistakably stated. Consent may be stated orally, in writing, electronically or in any other form, as long as it is clearly communicated.

Individual means a natural person.

Implied consent means where consent may reasonably be inferred in the circumstances from the conduct of the individual and the Council.

Personal information means 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 reasonably be ascertained, from the information or opinion. Examples include: name, signature, address, telephone number, date of birth, bank account details, and employment details.

Sensitive Information includes information or an opinion about an individual's:

- Racial or ethnic origin;
- Political opinions;
- Membership of a political association;
- Religious beliefs or affiliations;
- Philosophical beliefs;
- Sexual orientation or practices;
- Criminal record that is also personal information;
- Health information about an individual;
- Genetic information about an individual that is not otherwise health information;
- Biometric information that is to be used for the purpose of automated biometric verification or biometric identification;
- Biometric templates

Sensitive information is generally afforded a higher level of privacy protection under the APPs than other personal information.

Use means when Council handles and manages information in its control eg accessing and reading the personal information, searching records, making decisions, providing to another Department within Council (this could include providing personal information to a contractor to perform services on behalf of the Council).

6. Policy Content

Council will not collect personal information about an individual unless the information is reasonably necessary for one or more of the Council's functions or activities, unless required by law. Council functions and activities include but are not limited to:

- Community Services
- Community Engagement
- Complaint Management
- Debt Collection
- Dog and Cat Management
- Education Programs
- Environmental Health Management
- Events Management
- Facility Hire
- Library Services
- Maintenance of Assessment Record
- Permits, Leases and Licences
- Planning and Building
- Property Rating
- Regulatory and Fire Prevention Services
- Strategic Planning and Budgeting
- Tourism Development
- Visitor Information Services
- Volunteering

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

- Name and Address (postal, residential and email address)
- Telephone numbers
- Age and/or date of birth
- Property ownership and/or occupier details
- Details of resident's/ratepayer's spouse or partner
- Development applications and associated documents
- Pet ownership
- Electoral roll details
- Pensioner/concession information
- Payment history
- Financial details
- Details of land valuations
- Preferred addresses
- Details of employment
- Insurance details

Personal information that is collected by Council will be collected in a fair and lawful manner and will not be collected unnecessarily.

6.1 Maintenance and Storage of Personal Information

Council will take reasonable steps and use appropriate security mechanisms to ensure that the personal information held by the Council is protected from misuse and loss, and from unauthorised access, modification or disclosure.

In the event of a Data Breach involving TFN information, Council will manage the breach in accordance with the Notifiable Data Breach Guidelines.

6.2 Integrity and Security of Personal Information

Council will take such steps as are reasonable in the circumstances to:

- Ensure that the personal information that it collects, uses or discloses is accurate, up to date and complete.
- Protect the information from misuse, interference and loss and from unauthorised access, or disclosure.
- Destroy any personal information that is no longer required for any purpose for which the information may be used or disclosed under this Policy and is not required by, or under, any Australian Law, Council Policy or court order to retain the information.

6.3 Use or Disclosure of Personal Information

Where Council holds personal information about an individual that was collected for a particular purpose (the Primary Purpose), Council should not use or disclose the information for another purpose unless:

- The individual has consented to the use or disclosure of the information or;
- The individual would reasonably expect that Council would use or disclose the information for the secondary purpose as it is directly related to the Primary Purpose.
- The use or disclosure of the information is required or authorised by law; or
- Council reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by Council.
- TFN information is only provided for authorised purposes.

Notwithstanding the above, Council should not disclose personal information in a public document without the express or implied consent of the individual concerned ie as part of a public consultation process, consent should be obtained at this time if it is intended to include personal information with other feedback in a Council agenda. Otherwise Council should de-identify information prior to presentation in a public document.

Council will not use or disclose '*sensitive information*' for the purpose of direct marketing without consent.

Council will not use or disclose '*personal information*' about an individual for the purpose of direct marketing unless the following applies:

- The individual has consented to the use or disclosure of the information; or
- Council collected the information from the individual and the individual would reasonably expect Council to use or disclose the information for that purpose; and

Council provides a simple means by which the individual may easily request not to receive direct marketing communications from Council; and the individual has not made such a request to Council.

6.4 Public Access to Information

Council recognises that certain documents containing Personal Information are legislatively required to be made available for public access.

These include:

- Property Assessment Records
- Adjoining Property Owner Requests
- All Council Agenda items which have not been subject to a confidentiality order under Section 90(3) of the *Local Government Act 1999*
- Public Consultation documents under the *Planning, Development and Infrastructure Act 2016*
- Voters Roll
- Petitions to Council (refer to Clause 6.7)

6.5 Suppression of Personal Information

A person's name or address be suppressed from Council's Assessment Record and Voters Roll where the Chief Executive Officer is satisfied that inclusion of the name or address on the Assessment Record and/or Voters Roll would place at risk the personal safety of that person, a member of that person's family, or any other person.

Enquiries regarding suppression of personal information should be directed to Senior Rates Officer in the first instance.

6.6 Petitions

Council receives Personal Information in petitions (for example, names, signatures and addresses) forwarded to it from those who want Council to undertake a certain action. The Chief Executive Officer is required under the *Local Government (Procedures at Meetings) Regulations 2013* to place the petition on the public agenda for the next ordinary Council meeting.

6.7 Freedom of Information

Applications received under the *Freedom of Information Act 1991* for access to a document which contains the personal affairs of any person should be referred to Council's Freedom of Information Officer who will determine if a document is an exempt document based on Clause 6 of Schedule 1 of the *Freedom of Information Act 1991*.

6.8 Closed Circuit Television

Closed Circuit Television (CCTV) forms part of Council's broader safety strategies which focuses on crimes against a person/s and/or property assisting in the provision of an effective and enhanced policing service and enhancing public safety.

A sign will be placed on Council infrastructure (where appropriate) stating "CCTV in Use" and the release of CCTV footage will be in accordance with Council policies, procedures and relevant legislation.

If an activity that has been recorded by CCTV is identified by Council Employees and deemed to be of a criminal nature (ie graffiti, vandalism, illegal dumping etc), the matter will be referred to the South Australian Police or other appropriate enforcement agency.

Council will continue to work in conjunction with South Australian Police for the prevention of disorderly behaviour and detection of crime.

Council will not make use of information collected in the conduct of its business for any purpose other than those for which that information was collected.

6.9 Grievance

Any concerns about Council's management of personal information may be managed under Council's Complaint Handling Policy.

7. Risk Management

This Policy addresses legislative risk and promotes a consistency in the collection, use and disclosure of personal information.

8. Implementation/Delegations

The Chief Executive Officer is the delegated authority to implement this Policy.

9. Related Documents

- Assessment Book Record Policy
- Australian Privacy Principles - Guidelines (www.oaic.gov.au)
- Complaints Handling Policy and Procedure
- Records Management Policy
- Privacy (Tax File Number) Rule 2015

- Local Government Association – Notifiable Data Breach Guidelines

10. Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au.