

Document Control	
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1. Purpose

The *Information Privacy Act 2009* (IP Act) sets out Councils' obligations with regards to personal information. The IP Act provides for the fair collection and handling of personal information and provides rights for individuals of access and amendment of their personal information.

This policy provides the framework for Council to collect and manage personal information responsibly and transparently in accordance with the IP Act.

2. Scope

This policy applies to all Councillors, Council staff, volunteers and contractors. Personal information held by Council covered by this policy includes, but is not limited to, a person's: -

- name and address;
- signature;
- telephone number;
- email address;
- age and/or date of birth;
- property ownership and/or occupier details;
- library membership;
- animal ownership;
- customer request information or complaints;
- payment history;
- pensioner and concession details;
- visual images;
- video recordings;
- audio recordings; and
- personnel files and payroll information.

3. Related Legislation

Information Privacy Act 2009

Right to Information Act 2009

Invasion of Privacy Act 1971

Local Government Act 2009

Local Government Regulation 2012

4. Related Documents

Contractors and Information Privacy Information Sheet **CGI411**

Personal Information (Images) Collection and Consent Form **CGF140**

[Right to Information/Information Privacy Access Application Form](#)

5. Definitions

To assist in interpretation of this policy the following definitions apply:

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

Amendment – correcting personal information where it is determined to be inaccurate, incomplete, out-of-date or misleading.

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

Collection notice - notification to an individual about the purpose of the collection of personal information, the use of the information and to whom it could commonly be disclosed to.

Consent – voluntary, informed agreement to some act, practice or purpose.

Document – means anything that is a document of the Council under the *Acts Interpretation Act 1954*.

Disclosure – the release of personal information to persons or organisations outside of Council. This does not include giving individuals personal information about themselves or providing information that the recipient already knows or is in a position to find out themselves.

Executive Team – comprises Chief Executive Officer (CEO), Directors and Manager – People and Organisational Development.

Personal Information – is 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, including a photograph or other pictorial representation of a person.

Privacy breach – means when personal information is not handled, whether by accident or otherwise, in accordance with the privacy principles.

6. Policy Statement

6.1 Councillors, Council staff, volunteers and contractors will take all steps necessary in the collection, use, disclosure, storage, security and handling of personal information in compliance with all relevant legislation, including the Information Privacy Principles, the transfer of personal information overseas, and the bound contracted service provider obligations.

6.1.1 Complying with the Information Privacy Principles (IPPS)

IPP 1 - Collection of Personal Information - Lawful and Fair

All personal information will be collected by Council only for the purpose of conducting Council business and for the provision of services to the community. Council will only collect personal information in a lawful and fair manner for a purpose directly related to, and necessary to fulfil a function or activity of Council or to provide services.

IPP 2 - Collection of Personal Information - Requested from an Individual

When Council requests personal information from the individual, it will take all reasonable steps to ensure that the individual is generally aware of the purpose for the collection (i.e., by providing a collection notice).

Council will advise the individual at the point of collection of the personal information that the collection is authorised or required under a law and the applicable law authorising the collection.

Where disclosure will usually occur, Council will advise the individual if their personal information will be disclosed to other entities and the name of those entities either before the personal information is collected or as soon as practicable after the personal information is collected

IPP 3 - Collection of Personal Information – Relevance

Council will take all reasonable steps to ensure that personal information requested is relevant to the purpose for which it is collected, is complete and up to date. The collection of personal information will not be done in a way that is an unreasonable intrusion into the personal affairs of the individual.

IPP 4 - Storage and Security of Personal Information

All appropriate steps will be taken to protect the personal information Council holds from unauthorised access, use, modification, disclosure, loss or any other misuse. Council will take steps necessary to prevent unauthorised use or disclosure of personal information by contractors in connection with the provision of a service to Council by the contractor.

IPP 5 - Providing Information about Documents Containing Personal Information

Council will take all reasonable steps necessary to ensure that a person can find out whether the Council has control of any documents containing their personal information, the type of personal information, the main purpose for which their personal information is used and how they can obtain access to a document containing their personal information.

IPP 6 - Access to Documents Containing Personal Information

An individual may request in writing, access to their own personal information under the IP Act. This includes the formal IP Access process outlined in Chapters 3 of the IP Act and the *Right to Information Act 2009*. Council will provide access to requested information unless the Council is authorised or required by law to refuse to give access to the document or the document is expressly excluded from access. Council may redact any irrelevant, exempt or contrary to public interest information from a copy of the document being sought.

IPP 7 - Amendment of Documents Containing Personal Information

Council will amend documents containing personal information if requested by an individual if the documents are inaccurate, incomplete or out-of-date.

IPP 8 - Checking of Accuracy of Personal Information Before Use by Council

Council will take all reasonable steps to ensure that before it uses personal information the information is accurate, complete and up-to-date.

IPP 9 - Use of Personal Information only for Relevant Purpose

Council will only use those parts of a document containing personal information that is directly relevant to fulfilling the particular purpose.

IPP 10 - Limits on Use of Personal Information

Personal information collected by Council for a particular purpose will not be used for another purpose unless:

- a) Council has the express or implied agreement of the individual to use their personal information for another purpose; or
- b) Council is satisfied on reasonable grounds that the secondary use is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- c) use of personal information for another purpose is authorised or required under law; or

- d) Council is satisfied on reasonable grounds that use of the personal information for another purpose is necessary for:
 - i. the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
 - ii. the enforcement of laws relating to the confiscation of the proceeds of crime;
 - iii. the protection of the public revenue;
 - iv. the prevention, detection, investigation or remedying of seriously improper conduct;
 - v. the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.
- e) the other purpose is directly related to the purpose for which the information was obtained; or
- f) the use of the personal information is necessary for research or the compilation or analysis of statistics in the public interest; does not identify any particular individual who is the subject of the personal information; and it is not practicable to obtain the agreement of each individual who is the subject of the personal information.

IPP 11 - Limits on Disclosure

Council will not disclose personal information to a person, body or agency (other than the individual concerned) unless:-

- a) the individual is reasonably likely to have been aware Council has been doing this since before 2009 or is reasonably likely to have been made aware of the disclosure because Council included this information in its 'collection notice'; or
- b) the individual concerned has expressly or impliedly agreed to the disclosure; or
- c) Council is satisfied on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- d) the disclosure is required or authorised by or under law, or
- e) Council is satisfied on reasonable grounds that the disclosure is necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.

6.2 Contractors:

Under section 35 of the IP Act, Council must take all reasonable steps necessary to ensure that contracted service providers comply with the Information Privacy Principles and section 33 of the IP Act, *Transfer of personal information outside of Australia*.

Importantly, transfer is different to 'disclosure; which is defined in section 23(2) of the IP Act. *Transfer* is not defined in the IP Act. The Macquarie Dictionary defines transfer as, relevantly, *to convey or remove from one place, person, etc., to another*. As such, personal information will be transferred out of Australia when the information travels from Australia to another country.

Examples of transfer are:

- Updating personal information on databases which are stored on a server in another country.
- Making personal information available on a webpage that is hosted outside of Australia.

Circumstances in which a transfer may occur include:

- The individual has expressly agreed.
- The transfer is authorised or required under a law.
- Council is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of any individual, or to public health, safety and welfare.

6.3 How to make an Information Privacy Complaint:

A complainant may make an Information Privacy Complaint in writing. All written complaints must be addressed to:

The Chief Executive Officer
Gympie Regional Council
PO Box 155
GYMPIE QLD 4570

Written complaints addressed as above may also be sent via email to council@gympie.qld.gov.au

7. Review Trigger

This policy will be reviewed when any of the following occur:

1. The related legislation/documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council
3. As initiated by the CEO or Executive Team.
4. Periodic Review – 4 years from last review date by Council resolution.

8. Appendices

NIL