

Logan City Council

Information Privacy Procedure

Logan City Council
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INNOVATIVE, DYNAMIC, CITY OF THE FUTURE

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1 Procedure Objective

Logan City Council is committed to managing all information that is in its possession or control in accordance with the requirements of the *Information Privacy Act 2009* (IP Act) and the *Local Government Act 2009* (LG Act).

This Procedure aims to:

- demonstrate to members of the public how Council meets its obligations under the legislation;
- provide a guideline for Councillors and Council employees who deal with personal information and confidential information in relation to the functions and activities of Council; and
- illustrate Council's commitment to respecting the privacy rights of Councillors, Council employees and members of the public.

2 Personal information

2.1 How Council collects personal information

Council conducts a diverse range of business activities with many functions crucial to the provision of services to Logan City. The collection of personal information is a central part of many of these activities. Personal information held by Council includes, but is not limited to:

- Customer name – including previous names
- Customer address – including address history
- Date of birth
- Marital status
- Ethnicity
- Licence/permit expiry date
- Customer restrictions
- Financial information
- Digital photographs
- CCTV footage
- Audio and/or visual recordings

2.1.1 Sensitive information

Council collects personal information that may be considered 'sensitive' such as health information and ethnic origin. The IP Act does not specifically refer to sensitive information. However, Council is required to handle all information, including sensitive information, in accordance with the Information Privacy Principles (IPPs) set out in the IP Act.

2.1.2 Social media

Council has established official accounts on Facebook and Twitter to reach and engage with audiences within the community. Any information provided on Council's social media sites will only be used to perform our functions or activities. Council will not send personal details to any third parties without the individual's consent, unless required or authorised to do so by law. Users of these accounts must be aware of the individual social media site's terms of use and privacy conditions prior to use.

2.1.3 Mobile apps

Mobile applications or 'apps' are software programs designed to run on a smartphone, tablet computer or other mobile device. Council currently has a range of mobile apps that are capable of capturing personal information such as location, device or contact details. Personal Information that is collected via applications are only used by Council for the purpose it was collected and managed in accordance with the IPPs.

2.1.4 Cloud computing

Cloud computing is a term for moving functions from a computer and agency-owned server to an online environment, usually as a solution for the storage, management, and processing of data. Sometimes cloud computing servers are located outside of Australia, and as a result, personal information is transferred overseas. Council will manage the personal information in accordance with the IP Act and the whole of government ICT-as-a-service offshore data storage and processing policy.

2.1.5 CCTV

Council uses CCTV (closed-circuit television) systems in many locations throughout the city, primarily for safety and security purposes and for monitoring and managing the city.

Any time a CCTV captures pictures or video footage of an identifiable individual, it is potentially capturing personal information. Council's CCTV systems are operated with respect for people's privacy, and the images captured by the CCTV are maintained in the following manner:

- recording and retention of images are undertaken fairly and lawfully
- recorded images are only used for the purpose for which the CCTV system was installed, unless these images are required by a law enforcement agency
- individuals are made aware through various mechanisms that they are subject to CCTV surveillance, unless the system is being used for investigation or other law enforcement purposes.

2.1.6 Body Worn cameras and audio recording devices

Council's compliance officers may use body worn cameras (BWCs) and/or audio recording devices. Implementation of BWCs/audio recording devices in law enforcement agencies have demonstrated benefits from using BWCs/audio recording devices including:

- improvements in customer experience through a reduction in response time for complaint management, as accessibility to image and voice data reduces the time associated with investigating complaints
- efficiency improvements in the digital evidence management workflow
- increasing the safety of compliance officers.

Council is conscious of respecting people's privacy, as such its compliance officers will only activate BWC or audio recording when exercising a legislative power. This approach will reduce capturing the personal information of customers not involved with the enforcement action.

2.2 How Council manages personal information

2.2.1 The Information Privacy Principles

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.

IPP 1-3 Collection of personal information	<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.
IPP 4 Storage and security of personal information	<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 <i>Financial Performance Management Standard 2009</i>, the <i>Public Records Act 2023</i> and the Queensland Government Information Standards. All records are kept according to Council's Records Retention and Disposal Schedule, approved by Queensland State Archives.
IPP 5-7 Access to and amendment of personal information	<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 be made via an online application form which is located on the Right to Information (RTI) website, http://www.rti.qld.gov.au • 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.
IPP 8 -11 Use and disclosure	<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.

of personal information	<ul style="list-style-type: none"> • 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.
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2.2.2 When don't the Information Privacy Principles apply?

In some circumstances, the IP Act recognises that it is appropriate to create a number of exceptions to and exemptions from the obligation to comply with the IPPs. Schedule 1 of the IP Act sets out the documents to which the privacy principles do not apply. Although these documents may not be subject to the IPPs, these documents may have secrecy or confidentiality obligations set out in other relevant legislation.

2.2.3 Transfer of personal information outside Australia

Council abides by section 33 of the IP Act when managing personal information. Section 33 of the IP Act sets out the limited circumstances when Council may transfer personal information outside of Australia. When transferring personal information to an overseas cloud hosting facility, Council ensures that the vendor will manage the personal information in accordance with the whole of government ICT-as-a-service offshore data storage and processing policy and in a manner consistent with the IPPs. Council ensures that appropriate privacy assessments are conducted prior to the transfer of personal information outside of Australia.

3 Confidential information

3.1 How Council collects confidential information

The following types of information are regularly collected or generated by Council and will be considered to be confidential to Council unless or until Council makes a resolution to the contrary in a particular instance:

- Commercial in confidence information — including where the release of information would affect a third party's competitive advantage; this is particularly relevant in a competitive tender situation.
- Information derived from government departments or Ministers that have been classified as confidential.
- Information of a personal nature or about personal affairs, for example the personal details of Councillors or Council staff.
- Information relating to a property disposal or acquisition process where release of the information may prejudice Council.
- Financial and legal analysis where the disclosure of that information may compromise Council or someone else.
- Information that could result in action being taken against Council for defamation.
- Information involving legal advice to Council or a legal issue or a matter before the courts.
- Information that is expressly given to Councillors or staff in confidence.
- Information examined or discussed at Councillor workshops or briefing sessions, unless the CEO declares that such information (or part thereof) is not confidential.
- Documents listed in Schedules 1 and 3 of the Right to Information Act 2009
- Information referred to in sections 170 and 171A of the Local Government Act 2009
- Information about:

- the appointment, dismissal or discipline of employees
- industrial matters affecting employees
- the Council's budget
- rating concessions
- contracts proposed to be made by Council
- starting or defending legal proceedings involving Council
- any action to be taken by the local government under the Planning Act 2016, including deciding applications made to it under that Act.

3.2 How Council manages confidential information

Councillors and Council employees will be in receipt of confidential information acquired during the normal conduct of their duties with Council. It is each Councillor and Council employee's responsibility to ensure that such information is treated confidentially, so as not to harm, prejudice or compromise the interests of Council or any individual or organisation, or enable any individual or organisation to gain a financial advantage.

Council is obliged to meet its obligations under the legislation, including the *Local Government Act 2009*, the *Right to Information Act 2009*, the *Public Interest Disclosure Act 2010*, which identifies that certain information must be treated as confidential and may be exempt from public disclosure. Council will manage confidential information in accordance with these legislative obligations. Confidential information will be stored and managed in accordance with the requirements of the *Public Records Act 2023*.

3.3 Closed Session Reports

Under Section 275 of the *Local Government Regulation 2012*, Council may resolve that a meeting be closed to the public if its councillors or members consider it necessary to close the meeting to discuss certain issues.

Whilst the resolution arising from such matters must be considered in open session, Council has the option to make any reports or material prepared about a closed session matter only available under the provisions of the *Right to Information Act 2009*, the IP Act or legal proceedings.

Council will endeavour, in the interests of public accountability, to limit the number of matters that are considered in closed sessions whilst also acknowledging that it is appropriate to consider certain matters in closed meetings

The CEO may make a declaration that information (other than Council reports) concerning a specific matter is to be treated as confidential to Council, and the information will remain confidential unless or until Council resolves to the contrary.

An item on a Council meeting agenda and the information contained in the documentation or supporting material that is declared confidential by the CEO is to remain confidential unless or until Council resolves to the contrary. Confidential information must be clearly identified as confidential.

If the Mayor or a Councillor in a meeting asks that a matter be treated as confidential, Council will formally resolve as to whether all information concerning the matter is confidential.

If Council exercises its powers under Section 275 of the *Local Government Regulation 2012* to close its meeting to members of the public, all information in relation to the matters discussed during that closed meeting or the closed portion of the meeting is confidential, unless and until the Council resolves to the contrary.

3.4 Use of confidential information by Councillors

A Councillors role requires them to be in receipt of confidential information that may or may not be part of a formal Council meeting. Councillors must manage information in a way that promotes and maintains the public's trust and confidence in the integrity of the Council and in accordance with the legislation.

Any information of a type deemed to be confidential is to be presumed by Councillors to be confidential to Council and must not be released without seeking advice from the CEO.

If a Councillor has any doubt as to whether Council considers information to be confidential, the Councillor is to act on the assumption that Council does consider the information to be confidential, until the doubt is resolved at a subsequent meeting of Council.

Improper use of Council information by a Councillor is a breach of section 171 and 171A of the *Local Government Act 2009* and the Code of Conduct for Councillors in Queensland. Any improper use of information by a Councillor will be referred to the Office of the Independent Assessor in accordance with section 150O of the *Local Government Act 2009*.

3.5 Use of confidential information by Council employees

A Council employee's role may require them to be in receipt of confidential information. Council employees must manage information in a way that promotes and maintains the public's trust and confidence in the integrity of the Council and in accordance with the legislation.

Any information of a type deemed to be confidential is to be presumed by Council employees to be confidential to Council and must not be released without seeking advice from Corporate Governance.

If a Council employee has any doubt as to whether Council considers information to be confidential, the Council employee is to act on the assumption that Council does consider the information to be confidential, until the doubt is resolved on the advice of Corporate Governance.

Improper use of Council information by a Council employee is a breach of section 200 of the *Local Government Act 2009* and Council's Code of Conduct for Staff. Any improper use of information by a Councillor will be treated as a breach of the Code of Conduct for Staff and potential corruption.

4 Disclosure of Information

Councillors and Council employees are to assume that all information in Council's possession or control is confidential. When a person or entity requests access to information within Council's possession or control, access can only be provided as permitted under the relevant legislation, local law, or Council policy.

Where there is no guidance as to the ability to release information to a person or entity, the Corporate Governance Manager, Director of Organisational Services or Chief Executive Officer may make a determination to release the information.

5 Roles and Responsibilities

The Chief Executive Officer has designated the following roles and responsibilities for managing information privacy within Council:

Role	Responsibilities
CEO	<ul style="list-style-type: none"> is the accountable officer for ensuring Council's administrative procedures and management of information practices adhere with privacy obligations
Integrity & Information Program	<ul style="list-style-type: none"> ensuring and managing privacy compliance, reporting and providing advice to members of the public and employees about Council's privacy obligations including: ensuring employees have access to adequate training materials in relation to privacy compliance delegated authority to investigate and make decisions about all privacy complaints and breaches of privacy assisting business units in conducting privacy impact assessments when designing and implementing new projects and programs that involve the management of personal information maintaining and periodically reviewing the Information Privacy Policy and Procedure.
Directors and Branch Managers	<ul style="list-style-type: none"> ensuring their directorates and branches comply with all policies and procedures in place to maintain to uphold the IPPs and confidentiality ensuring employees are educated about the privacy compliance obligations referring all complaints/breaches to Corporate Governance seeking advice from Corporate Governance when considering new projects or programs that involve the management, use or disclosure of personal information.
Councillors and Council employees	<ul style="list-style-type: none"> exercise due care when handling or using information acquired in their role with Council if uncertain, presume information is confidential, and seek advice from the Integrity & Information Program prior to any release of it ensure that the personal information they handle is managed in accordance with the IPPs, the Information Privacy Policy and this Procedure report all suspected or actual breaches of privacy to the Integrity & Information Program for investigation and decision not access or attempt to access personal or confidential information that is not required for their role treat personal and confidential information as confidential and exercise due care when accessing, using, handling, storing and the disposing of personal or confidential information acquired within their role not use personal or confidential information to: <ul style="list-style-type: none"> gain improper advantage for any person, entity, organisation or themselves cause harm or detriment to Council, or any person, entity or organisation prevent the disclosure of personal or confidential information to any person or organisation

	<ul style="list-style-type: none"> • avoid discussing personal and confidential information with any third party • ensure that all personal and confidential information is properly safeguarded at all times
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6 Information Privacy Complaints

If an individual believes that Council has not dealt with their personal information in accordance with the requirements set out in the IP Act, they may submit an information privacy complaint.

Privacy complaints made to Council must:

- include an address of the complainant to which notices may be forwarded under the IP Act
- provide certified identification
- give particulars of the act or practice which is the subject of the complaint.
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Privacy complaints may be marked Private and Confidential and forwarded to:

Integrity & Information Program
Corporate Governance Branch
Logan City Council
PO Box 3226
LOGAN CENTRAL QLD DC 4114
Email: council@logan.qld.gov.au
Phone: 07 3412 3412

Complaints will be acknowledged in writing within 5 business days from the date on which the complaint is received, will be investigated and a decision made as to whether the complaint is substantiated or not within 45 business days.

In the circumstance where a longer period of time is required in order to finalise a complaint, the complainant will be contacted with a view to keeping the complainant informed of progress. On completion, the complainant will be advised in writing of Council's decision, including any remedies that are considered appropriate to resolve the complaint.

All general privacy enquiries should also be sent to Council's Integrity & Information Program.

7 Definitions

Definitions for terms used within the Procedure can be found in the Information Privacy Policy (DM: 13315298).