

Policy Type	Corporate
Function	Governance
Policy Owner	Chief Executive Officer
Policy Contact	Director Corporate and Community Services
Effective Date	13 February 2024

Purpose

The purpose of this policy is to outline Council's commitment to maintaining a culture that respects each individual's right to privacy. The policy sets out the principles in relation to Council's management of personal information.

Scope

This policy applies to the management, collection, use, storage and disclosure of personal information by all Council employees, contractors, the Mayor and Councillors.

Policy Statement

The *Information Privacy Act 2009* sets out how Council must handle personal information. Individuals have the right to request a copy of their personal information and request for documents to be amended if they are inaccurate, incomplete or out of date.

Collection of Personal Information

The Council will not collect personal information unless:

- the personal information is collected for a lawful purpose directly related to a legislative function or power of the Council or Council business operations; and
- collection of the personal information is necessary for or directly related to that purpose; and
- at the time of collection, or as soon as practical thereafter, Council will take reasonable steps to ensure that the person is generally aware of:
 - the purpose of collection;
 - if the collection is authorised or required under a law;
 - if it is Council's usual practice to disclose this type of personal information and to whom it is disclosed.

The personal information¹ that may be collected will depend on the particular purpose for which it is collected and may include but is not limited to:

- telephone/mobile numbers;
- name and addresses (postal, residential and email addresses);
- age and/or date of birth;
- gender;
- property ownership and/or occupier details;
- details of resident's/ratepayer's or employee's spouse or partner;
- development applications including plans or specifications of buildings;
- pet ownership;
- electoral roll details;
- pensioner/concession information;

¹ See [Section 12](#) of the *Information Privacy Act 2009*

- payment history;
- financial, rental or income details;
- details of land valuation;
- power of attorney details;
- wills;
- preferred addresses and methods of contacts including email addresses;
- details of employment;
- car registration and driver's licence details
- next of kin, emergency contact or parent details;
- details of membership of community groups;
- insurance details; and
- photographs or videos of individuals (including images captured through camera surveillance)

The purposes for which personal information may be collected by Council includes but is not limited to:

- delivering services and programs;
- determining rates;
- assessing applications for development approval, licences, registration and permits;
- maintaining Council run facilities;
- maintaining security of Council's property.

Collection Notices

All personal information that is collected by Council will be collected in a fair and lawful manner. Where possible, Council will publish a collection notice to advise the public that their information is being collected. Collection notices may be included on public forms, on Council's website and may be displayed on an A-Frame sign at public events.

Council will take reasonable steps to inform the person whose personal information it collects:

- of the purpose(s) for which the personal information is being collected; and
- if the collection of the information is authorised or required by law, that the collection is so authorised or required; and
- in general terms of its usual practices with respect to the use and disclosure of personal information of the kind collected.

Council will take reasonable steps to ensure that personal information collected by it, is relevant to the purpose(s) of collection and is up to date and complete.

Council will take reasonable steps to ensure that the collection of personal information does not unreasonably intrude upon an individual's personal affairs.

Council may collect information concerning persons from a number of private and public sector agencies, which may include, but is not limited to, the Electoral Commission of Queensland, Office of the Valuer-General, Telstra and from individual persons.

Collection of Sensitive Information

Council will not collect sensitive information about an individual unless:

- the individual has consented;
- 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 Policy, Council will take reasonable steps to de-identify the information before Council discloses it.

Maintenance and Storage of Personal Information

Council may disclose some personal information to an offshore third party cloud computing services provider. In this event, Council will take adequate and reasonable steps to assure appropriate data security.²

Council will take reasonable steps to:

- protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure; and
- maintain its recordkeeping systems to ensure that all personal information collected is up to date, accurate and complete as far as reasonably practicable; and
- ensure that any person who, on behalf of Council, uses or discloses personal information held by Council has appropriate authorisation to do so.

Transfer of personal information outside of Australia

Council may transfer personal information outside of Australia in any of the following circumstances, in accordance with Section 33 of the *Information Privacy Act 2009*:

- if the individual has agreed; or
- if the transfer is authorised or required under a law; or
- if 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; or
- if two or more of the following apply:
 - Council reasonably believes that the recipient of the personal information is subject to a law, binding scheme or contract that effectively upholds principles for the fair handling of personal information that are substantially similar to the Information Privacy Principles.
 - The transfer is necessary for the performance of Council's functions in relation to the individual.
 - The transfer is for the benefit of the individual but it is not practicable to seek the agreement of the individual, and if it were practicable to seek agreement of the individual, the individual would be likely to give the agreement.
 - Council has taken reasonable steps to ensure that the personal information it transfers will not be held, used or disclosed by the recipient of the information in a way that is inconsistent with the Information Privacy Principles.

Use of Personal Information

Where Council collects personal information for a particular purpose (the primary purpose), it will not use that personal information for any other purpose (secondary purpose), unless:

- Council first takes steps to obtain the consent of the individual concerned to use his or her personal information for that secondary purpose; or
- the individual would reasonably expect Council to use or disclose the information for the secondary purpose and the secondary purpose is directly (for sensitive information) or indirectly related (for any other information) to the primary purpose; or
- Council believes on reasonable grounds that use of the information for that secondary purpose is necessary to prevent or lessen a serious or imminent threat to the life or health of the individual concerned or another person; or
- use of the information for that secondary purpose is required or authorised by law; or

² See [Section 33 Information Privacy Act 2009](#)

- use of the information for that secondary purpose is reasonably necessary for the enforcement of the criminal law or law imposing a pecuniary penalty.

Direct Marketing

Reasonable expectation to use or disclose:

If Council holds personal non-sensitive information about an individual, it must not use or disclose the information for the purpose of direct marketing except when Council has collected the information from the individual and the individual would reasonably expect Council to use or disclose the information for that purpose (except for sensitive information).

No reasonable expectation to use or disclose:

In the event that the individual would not reasonably expect Council to use or disclose non-sensitive information for direct marketing, the individual needs to have given consent to the use or disclosure of the information for that purpose.

Disclosure of Personal Information

Council will not disclose³ personal information it holds about a person to a third party, except where:

- a reasonable individual is likely to have been aware that his or her personal information would be disclosed in that way;
- a resident or ratepayer has consented to or made a written request for personal information to be provided to a third party;
- the personal information is provided for the purpose of distributing materials of and on behalf of Council (for example: the provision of address data for use by a mailing service provider to post Rate Notices or other materials);
- under contractual arrangements for data analysis purposes, personal information may be provided to a third party service provider for analysis of Council's procurement activities;
- a third party has been contracted by Council to provide advice or services for the purpose of assisting Council in providing benefits to persons (for example: Electoral Commission of Queensland, Office of the Valuer-General, insurers, legal service providers);
- Council is required or authorised by law to disclose the personal information to a third party or to the public at large;
- a resident or ratepayer has been advised of Council's usual practice of disclosing personal information to that third party or a third party of that type for a particular purpose and the disclosure is consistent with that purpose; or
- a public consultation submission has been received by Council. To enable transparency in consultation processes to occur, all public consultation submissions received by Council will become public documents and may be included in a report to Council which is also available to the public.

Where personal information is provided to Council by a person "in confidence", Council will not disclose such information to a third party without the person's consent, unless such disclosure is required or authorised by law (for example, applications made under the *Right to Information Act 2009* (Qld)).

Council will take reasonable steps to:

- contract only with third party service providers that are subject to the provisions of the *Privacy Act 1998* (Cth) and the National Privacy Principles; and
- where the third party service provider is not subject to the provisions of the *Privacy Act 1998* (Cth) and the National Privacy Principles, enter into a Privacy Agreement that requires the third party service provider to comply with the provisions of this Policy relating to the collection, use, storage and disclosure of personal information supplied by Council.

³ See [Section 23](#) of the *Information Privacy Act 2009*

Council may supply personal information about an individual to that individual as part of a standard communication or pursuant to a request made by the individual.

Council does not accept any responsibility 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.

Council expects that persons will, before relying on any personal information Council provides to them, first seek confirmation from Council about the accuracy and currency of such personal information.

Integrity and Alteration of Personal Information

Council assumes that personal information provided by persons or other persons is accurate, complete and up-to-date. It is the responsibility of persons to provide Council with details of any changes to their personal information as soon as reasonably practicable following such change.⁴

Council will take reasonable steps such as making appropriate deletions, additions and corrections to ensure that personal information held by it is accurate, relevant, complete, up to date and not misleading.

A person may apply to Council, in a form determined by Council to have his or her personal information amended so that it is accurate, relevant, complete, up to date and not misleading. Where Council, on reasonable grounds, decides not to amend an individual's personal information in the manner requested in the application, Council will inform the person of its decision and the reasons for refusing to make the requested amendments. If requested by an individual, Council will take reasonable steps to attach to a record containing that person's personal information a statement provided by that person of the correction, deletion or addition sought.

Access to Personal Information

A person who wishes to access personal information held by Council must make a written application, using the approved form and accompanied by the application fee (if applicable) in accordance with the *Right to Information Act 2009 (Qld)* or *Information Privacy Act 2009 (Qld)*.

Subject to the provisions of this legislation, the Council may grant or refuse access to personal information as it deems fit.⁵

The Council recognises that there are certain documents which may contain personal information that the Council is legislatively required to make available for access by members of the public.

All Right to Information (RTI) applications will be dealt with in accordance with the timeframes prescribed within the *Right to Information Act 2009 (Qld)*. Council may request from the applicant a further specified period in which to process the application for information.

Internal and External Review

An individual may seek internal review of a decision by the Council. The application for internal review must:

- be in writing;
- state an address to which notices may be sent to the applicant for internal review;
- be made within 20 business days after the date of the written notice of the decision; and
- be lodged at an office of Council.

Instead of an internal review, an individual may seek external review of the Council's initial decision by the Queensland Information Commissioner. The application for external review must:

⁴ See [Chapter 3](#) Part 1 & 2 *Information Privacy Act 2009* and Part 2 s24(2)(a) *Right to Information Act 2009*

⁵ See [Chapter 3 Part 3](#) *Information Privacy Act 2009*

- be in writing;
- state an address to which notices may be sent to the applicant for external review;
- give details of the decision for review;
- be made within 20 business days from the date of the written notice of the decision; and
- be lodged with the Queensland Information Commissioner.

Exceptions

Nil.

Risk Management

This Policy, in part serves to mitigate against the risks associated with the collection, storage, use and disclosure of personal information. Council is committed to ensuring that all staff and elected members are aware of and know how to apply the privacy principles to the information they deal with when performing their duties. Council's Code of Conduct for Workers along with the Document Management Operational Standard helps to reduce the risk of private information being accessed, stored or used incorrectly.

Legislation

Information Privacy Act 2009

Information Privacy Regulation 2009

Right to Information Act 2009

Right to Information Regulation 2009

Local Government Act 2009

Local Government Regulation 2012

Definitions and Abbreviations

Access	means providing to an individual, information about himself or herself 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 sources and by any means, including information that the Council has come across by accident or has not asked for.
Consent	means voluntary agreement to some act, practice or purpose.
Council	means Burdekin Shire Council.
Disclosure	means the release of information to persons or organisations outside the Council. It does not include giving individuals information about themselves.
Local Government Act	means the <i>Local Government Act 2009</i> , Queensland or a law under which Council performs its responsibilities, including for example – a local law, Building Act, Planning Act, Planning Scheme, Plumbing and Drainage Act, Water Act or Water Supply Act.
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 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:

- generally available publications;
- 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 the purpose of reference, study or exhibition.

Sensitive Information

means information or an opinion about an individual's:

- 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;
- criminal record; or
- health.

Use

means the handling of personal information within Council including the inclusion of information in a publication.

Related Documents

Reference Number	Document Title
External Form	Information Privacy Personal Information Amendment Application
External Form	Right to Information and Information Privacy Access Application
ICT-POL-0002	Camera Surveillance Policy
MED-POL-0004	Social Media Policy
GOV-POL-0024	Working with Children Policy
ICT-OSD-0005	Document Management Operational Standard

Document History and Version Control

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