

# PRIVACY POLICY

## MANAGEMENT DIRECTIVE



### 1 Scope

This policy applies to all Councillors, employees, contractors and volunteers of Rockhampton Regional Council.

This policy covers personal information that is collected, retained, stored and used by Council where it is necessary for one or more of Council's functions or activities.

### 2 Purpose

The purpose of this policy is to detail Council's legislative obligations and approach to managing, handling and protecting the personal information of internal and external customers.

### 3 Related Documents

#### 3.1 Primary

Nil

#### 3.2 Secondary

*Human Rights Act 2019*

*Information Privacy Act 2009*

*Local Government Act 2009*

*Right to Information Act 2009*

Complaint Form

Complaints Management Policy

Creating Privacy Collection Notices Guideline

Cyber Incident Response Plan

Data Breach Response Policy and Procedure

Information Privacy Personal Information Amendment Application

Information Privacy Principles

Information Security Policy

Personal Information Holdings Document

Privacy Deed

Right to Information and Information Privacy Access Application

Right to Information Policy

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## 4 Definitions

To assist in interpretation, the following definitions apply:

An Individual	Any living human being. That is, an individual is not a company, trust or deceased person.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Collection Notice (Privacy Notice)	Written and/or verbal notice advising customers: (a) Why Council is collecting their personal information; (b) Any legal authority to do so (if applicable); (c) Any individual or other agency Council may be disclosing their personal information to; and (d) Any other individual or agency that the first agency will be disclosing their personal information to.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Council	Rockhampton Regional Council
Councillor/s	The Mayor and Councillors of Council, within the meaning of the <i>Local Government Act 2009</i> .
Customer	An individual, business, organisation or a member of the public, a Councillor or Council employee.
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Personal Information	As defined in the Act, 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.
Privacy Complaint	An expression of dissatisfaction concerning the collection, storage, use or disclosure of personal information held by Council. The complaint may be concerning an individual's breach of privacy or a breach of another individual's privacy made on their behalf.
PIA	Privacy Impact Assessment, a scalable tool to identify the impact that a project might have on the privacy of an individual's personal information and make recommendations on how to manage any negative impacts.
RTI	Right to Information
The Act	<i>Information Privacy Act 2009</i>
Volunteer	Any person, who of their own free will, offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO and/or their authorised delegates.

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## 5 Policy Statement

Council is committed to upholding the right to privacy of all customers who have interactions with Council. Council takes the necessary steps to ensure personal information customers share with Council remains confidential.

This policy also serves to regulate and consolidate Council procedures in relation to the handling of personal information.

This policy should be read in conjunction with Council's Right to Information Policy.

### 5.1 Personal Information

Personal information is defined in the Act as 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 be reasonably ascertained, from the information or opinion.

'Apparent' means the individual can be identified solely from the information.

'Reasonably ascertained' allows reference to be had to other information that would lead to the individual being identified.

It is therefore, any information which can be used to identify an individual.

#### 5.1.1 Personal Information Holdings

Council maintains, on an ongoing basis, a Personal Information Holdings document that explains the various types of personal information collected and held, what the information is used for and the third parties to whom the information is normally disclosed. Where applicable, the document also details where Council is authorised to collect, use or disclose information under legislation relevant to Council policies, programs and services. A copy of the Personal Information Holdings document can be obtained from the Right to Information and Privacy section on Council's website.

### 5.2 Roles and Responsibilities

#### 5.2.1 Principal Officer

As defined in Schedule 5 of the Act, the CEO is the Principal Officer, and as such, is responsible for Council's obligations under the Act.

#### 5.2.2 RTI Coordinator

The Records Supervisor is appointed as the RTI Coordinator and is responsible for coordinating information privacy requests within Council and administering the key provisions under the Act.

#### 5.2.3 Decision Makers

Decision makers are employees sub-delegated powers by the CEO under the Act to deal with right to information and information privacy applications.

#### 5.2.4 Workforce Relations, Ethics and Payroll Unit

The Workforce Relations, Ethics and Payroll Unit is responsible for managing privacy complaints received from individuals.

### 5.3 The Collection of Personal Information

Personal information is only collected if it is necessary for one or more of Council's functions or activities.

Certain information is collected in order to comply with laws and regulations. When undertaking a new collection, a PIA must be undertaken along with a Privacy Impact Report to ensure compliance with the *Information Privacy Act 2009*.

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Council only uses personal information for the purposes for which it was collected and for any other use authorised or required by law, including law enforcement and compliance activities.

Whenever Council collects personal information, the information and the reasons for collection is shared with customers via a collection notice.

Collection notices must be displayed and/or verbally stated:

- (a) In all physical locations where personal information is collected;
- (b) In telecommunication messaging and on-hold systems; and
- (c) On all Council websites, forms, lease and contract documents.

#### **5.4 Use and Disclosure of Personal Information**

Personal information is not divulged to third parties outside of Council for their independent use unless the person to which the information relates has authorised, in writing, for Council to do so, or the disclosure is required or allowed by law.

Personal information is not made available in the public forum without the express written permission of the customer and other individuals detailed in any correspondence or collected in any way.

Personal information must not be sold, traded or made available to others unless allowed by law.

Information provided by customers for a specific purpose is only shared with other business units within Council as and when necessary to fulfil its lawful business and in accordance with the exceptions listed in Information Privacy Principle 10.

Where Council out-sources functions that involve the collection, utilisation and/or holding of personal information, contractual measures are taken to ensure contractors and subcontractors do not act in a way that would amount to a breach of the Information Privacy Principles. Council requires these contractors to sign a Privacy Deed to acknowledge the need to maintain the confidentiality of this information and abide by all applicable laws. Council does not permit third parties to sell or use the information for their own purposes.

Contracts with third parties include clear provisions about the purposes for which the contractor is to use the information and other provisions necessary to ensure the contractor does not make unauthorised disclosures. Contracts also contain provisions about how the contractor is to keep the information secure, and what the contractor must do with the information when works have been completed under the contract.

#### **5.5 Privacy Complaints**

Chapter 5 of the Act provides for an individual to make a complaint about Council's breach of the privacy principles which occurred on or after 1 July 2010.

Privacy complaints are to be made using Council's Complaint Form (available on Council's website). The investigation of privacy complaints is managed by the Workforce Relations, Ethics and Payroll Unit in accordance with the Complaints Management Policy and related procedures.

The individual may refer their complaint to the Office of the Information Commissioner if at least 45 business days has lapsed since making their complaint and they have not received a response or the individual considers the received response as an inadequate response.

#### **5.6 Data Breaches**

Where it has been identified that there could be broader data breach which includes private information, the Data Breach Response Policy and Procedure outlines the process to be followed. In the event this is also a cyber incident, Council's Cyber Incident Response Plan is to be followed.

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## 5.7 Accessing and Amending Personal Information

Chapter 3 of the Act provides for an individual to make an application to access and amend their personal information.

Applications to access and amend personal information are to be made via the following Queensland State Government forms:

- (a) Right to Information and Information Privacy Access Application (available on Council’s website) – for an individual to apply to access their personal information; and
- (b) Information Privacy Personal Information Amendment Application (available on Queensland Government website) – for an individual to apply to amend their personal information.

All applications are coordinated by the RTI Coordinator, who nominates the appropriate decision maker to deal with the application in accordance with the Act.

## 6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the CEO.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Deputy Chief Executive Officer
Policy Owner	Manager Corporate and Technology Services
Policy Quality Control	Legal and Governance



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