



CHERBOURG ABORIGINAL SHIRE COUNCIL

Minute Number: 961

Adopted On: 27/9/2012

Information Privacy Policy

1. POLICY STATEMENT

Cherbourg Aboriginal Shire Council will take all reasonable steps to protect the privacy of individuals by ensuring that the collection, use, disclosure and handling of all personal information by council complies with the *Information Privacy Act 2009*.

2. SCOPE

This policy applies to all personal information held by council. All councillors, employees, consultants, contractors, apprentices, trainees and work experience students and volunteers are responsible for ensuring this policy is understood and adhered to at all times.

3. POLICY OBJECTIVES

The objective of this policy is that Council will take all reasonable steps to comply with the relevant legislation for the collection, use, disclosure and handling of all personal information collected and held.

4. BACKGROUND AND/OR PRINCIPLES

The protection of personal information which can identify an individual is a matter of significance to the council. Council will comply with the Information Privacy Principles (IPP) contained in the *Information Privacy Act 2009* as follows:

- IPP1 – collection of personal information (lawful and fair)
- IPP 2 – collection of personal information (requested from individual)
- IPP 3 – collection of personal information (relevance etc)
- IPP 4 – storage and security of personal information
- IPP 5 – providing information about documents containing personal information
- IPP 6 – access to documents containing personal information
- IPP 7 – amendment of documents containing personal information
- IPP 8 – checking of accuracy etc. of personal information before use by agency
- IPP 9 – use of personal information only for relevant purpose
- IPP 10 – limits on use of personal information
- IPP 11 – limits on disclosure

5. POLICY DETAILS

The *Information Privacy Act 2009* sets out the ways in which council must handle personal information. It also gives individuals the right to request a copy of their personal information and to ask

for documents to be amended if they are inaccurate or out of date.

5.1 Openness

A copy of this policy will be available for public access at the Council Chambers and on Council's website.

Types of personal information held by council include:

- names and addresses
- telephone numbers
- age and/or date of birth
- property ownership and/or occupier details
- animal ownership
- payment histories
- pensioner / concession details
- library membership

Disclosure of personal information is only made after prior written consent of the individual is obtain or for the purposes stated in the collection notice.

Disclosure of personal information by placement on Council's website will be treated in accordance with Section 33 *Transfer of personal information outside Australia* of the *Information Privacy Act 2009*, whereby:

the individual gives prior written consent for their personal information to be placed on Council's website; or

the placement of personal information on Council's website is authorised or required under a law; or where Council is satisfied there is reasonable grounds that the transfer is required to lessen or prevent a serious threat to life, health, safety or welfare; or

in accordance with section 33(d) of the *Information Privacy Act 2009*.

5.2 Anonymity

Council may, wherever it is practicable and lawful, offer individuals the option of not identifying themselves when entering into transactions with Council, however Council's ability to respond, action and/or provide a requested service may be limited.

5.3 Sensitive Information

The council will not collect sensitive personal information about an individual unless:

consent is provided by the individual

collection is required by law

collection is necessary to prevent or lessen a serious threat to life, health, safety or welfare of an individual or

collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

5.4 Information Privacy Principles

5.4.1 IPP1 Collection of Personal Information (lawful and fair)

All personal information collected by council will be used 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 fulfill a function or activity of council.

5.4.2 IPP2 Collection of Personal Information (requested from an individual)

When council requests personal information or information of a type that would include the personal information from an individual, it will take all reasonable steps to ensure that the individual is generally aware of the purpose of the collection. Council will advise the individual if the collection of the personal information is authorised or required under a law and the applicable law authorising the collection.

Council will also advise the individual if their personal information will be disclosed to another entity and the name of that entity either before the personal information is collected or as soon as practicable after the personal information is collected. This advice is called the '*Privacy Notice*' or '*Collection Notice*'

5.4.3 IPP3 Collection of Personal Information (relevance)

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

5.4.4 IPP4 Storage and Security of Personal Information

All reasonable steps will be taken to protect the personal information council holds from loss, unauthorised access, use, modification, disclosure or any other misuse. Council will take all reasonable steps to prevent unauthorised use or disclosure of personal information by service contractors contracted for the provision of a service to council. Information is stored on council's databases which are protected by passwords and other security measures with backup copies stored at offsite facilities.

5.4.5 IPP5 Providing Information about Documents Containing Personal Information

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

5.4.6 IPP6 Access to Documents Containing Personal Information

An individual may request in writing access to their own personal information under the *Information Privacy Act 2009*. Council will provide access to requested information unless it is authorised or required under an access law to refuse to give the access the individual is seeking or the document is excluded from the operation of an access law. Suitable identification must be provided prior to an individual accessing the documents requested.

5.4.7 IPP7 Amendment of Documents Containing Personal Information

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

5.4.8 IPP8 Checking of Accuracy of Personal Information before use by Council

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

5.4.9 IPP9 Use of Personal Information only for Relevant Purpose

Council will only use the parts of personal information that are directly relevant to fulfilling the particular purpose for which it was collected.

5.4.10 IPP10 Limits on Use of Personal Information

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

- all reasonable steps are taken to obtain the written consent of the individual to use his/her personal information for another purpose; or
- council is satisfied that the 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
- use of personal information for another purpose is authorised or required under law; or
- council is satisfied that use of the personal information for another purpose is absolutely necessary for:
 - the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;

- the enforcement of laws relating to the confiscation of the proceeds of crime;
- the protection of the public revenue;
- the prevention, detection, investigation or remedying of seriously improper conduct;
- the preparation for, or conduct, of proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.
 - the other purpose is directly related to the purpose for which the information was obtained; or
- 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 before the use.

5.4.11 IPP11 Limits on Disclosure

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

the individual concerned is reasonably likely to have been aware, or made aware under IPP2 (refer to policy clause 5.4.2), that information of that kind is usually passed on to that person, body or agency; or

the individual concerned has consented to the disclosure; or

the council believes 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

the disclosure is required or authorised by or under law, or

the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.

Where personal information is disclosed for the purposes of enforcement of the criminal law or of a law imposing a pecuniary penalty or for the purpose of the protection of the public revenue, the council shall include in the record containing that information a note of the disclosure.

A person, body or agency to whom personal information is disclosed under Clause 1 of this Principle shall not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency.

Council will ensure that disclosure of personal information does not occur unless the disclosure is for the purpose of distributing materials for and on behalf of the council or, when a third party has been contracted by council, for the sole purpose of assisting council in providing services to its community.

5.5 Complaints

If an individual is not satisfied with the manner in which council has handled their request for access to their personal information, they may lodge a formal complaint under council's **General Complaints Policy**, a copy of which can be found on council's website or available at Council.

6. LEGISLATIVE AUTHORITY

Local Government Act 2009, Information Privacy Act 2009, Right to Information Act 2009

7. ASSOCIATED PROCEDURES AND RELATED POLICIES

General Complaints Policy

8. DEFINITIONS

Access - means providing an individual with personal 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 of the personal information.

Collection - means gathering, acquiring or obtaining personal information from any source 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.

Disclosure - means the release of personal information to persons or organisations outside the council. It does not include giving individuals personal information about themselves.

Individual - means a natural living person (entities and deceased persons do not have personal information)

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 that may give rise to discriminatory practices based on 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 personal information in a publication.

9. ADOPTED DATE: 27th September 2012

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