

Policy Name	Privacy Policy
Policy Number	CS44
Responsible Section	Governance
Responsible Department	Corporate Services
Date Last Adopted	11 July 2023
Date of Next Review	July 2026
Applicable Legislation	Local Government Act 1999 Local Government (Elections) Act 1999 State Records Act 1997 Planning, Development and Infrastructure Act 2016 Freedom of Information Act 1991 Privacy Act 1988 (limited to Privacy (Tax File Number) Rule 2015 and Notifiable Data Breaches Scheme and Information Privacy Principles (IPPS) Instruction (Cabinet Administrative Instruction)
Related Governance Documents	Elected Members' Information and Records Management Policy Staff Code of Conduct Policy
City Plan Theme	Leadership

1. PURPOSE/OBJECTIVE

The City of Port Adelaide Enfield ('Council') is committed to ensuring openness and transparency of governance to stakeholders while protecting the privacy of individuals. This Policy outlines how the Council will approach the collection, storage, disclosure and use of personal information.

2. SCOPE

This policy applies to all people with access to Council information systems and stores (computer-based or otherwise):

- Council staff;
- Elected Members;
- Volunteers;
- Work experience placements;
- Trainees; and
- Independent contractors and consultants.

3. POLICY

This Privacy Policy has adopted principles and approaches from:

- The Commonwealth Privacy Act 1988;
- Previous Ombudsman's finding in relation to Freedom of Information Request reviews; and
- The Department of the Premier and Cabinet's Information Privacy Principles Cabinet Administrative Instruction.

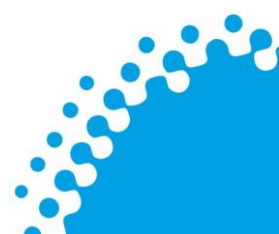
Although this legislation and administrative instruction do not directly apply to councils within South Australia, principles from within each have been adopted to ensure a suitable standard is applied within the Council.

Members of the public should be aware that the following principles apply when personal information is being considered and handled within the City of Port Adelaide Enfield.

1. Only information reasonably required for the operation and effective delivery of Council programs and services is collected and maintained.
2. Where possible the full purpose for information collection is disclosed at the time of collection. Noting that at times that purpose may be broad, for example to enable the effective communication with residents and stakeholders regarding projects and programs occurring within the Council area.
3. Information is stored within Council's systems taking into account its need for security and confidentiality.
4. Council is a file number recipient for the purposes of the Commonwealth Privacy Act 1988. A file number recipient is any person who is in possession or control of a record that contains Tax File Number (TFN) information. Council, as an employer, is in receipt of TFN information and has a notification obligation when a data breach, involving TFN information, is likely to result in serious harm to any individual whose TFN information was involved in the breach.
5. Council is subject to the Freedom of Information Act 1991. The objects of the Freedom of Information Act 1991 are:
 - a. To promote openness in government and accountability of Ministers and the Crown and other government agencies and thereby to enhance respect for the law and further the good government of the State; and
 - b. To facilitate more effective participation by members of the public in the processes involved in making and administration of laws and policies.

These objects are to be achieved as follows:

- a. Ensuring that information concerning the operations of government (including, in particular, information concerning the rules and practices followed by government in its dealings with members of the public) is readily available to members of the public and to Members of Parliament; and
- b. Conferring on each member of the public and on Members of Parliament a legally enforceable right to be given access to documents held by government, subject only to such restrictions as are consistent with the public interest (including maintenance of the effective conduct of public affairs through the free and frank expression of opinions) and the preservation of personal privacy; and



- c. Enabling each member of the public to apply for the amendment of such government records concerning their personal affairs as are incomplete, incorrect, out-of-date or misleading.

In addition, the Freedom of Information Act 1991 provides that Parliament's intention is that the provisions of the Act be interpreted so as to further the objects of the Act. As such, discretions conferred by the Freedom of Information Act will be exercised as far as possible so as to favour the disclosure of information without infringing the right to privacy.

3.1 Collection of Personal and sensitive Information

All personal and sensitive information collected by the Council is used only for the purpose of conducting council business and in the provision of council services to its customers.

The type of personal information that may be collected and held by the Council includes, but is not limited to:

- Names and addresses (postal, residential and email addresses)
- Telephone numbers
- Age and/or date of birth information
- Property ownership and/or occupier details
- Dog ownership
- Electoral Roll details
- Payment history
- Financial, rental or income details
- Pensioner/Concession information
- Drivers License number
- Payment history
- Library membership details

All information is collected in a fair and lawful manner and as required/permitted by law. The Council is committed to ensuring that residents and/or ratepayers are aware of the purpose of collection of the information.

In satisfying the collection and use of personal information obligations the Council has to its residents and/or ratepayers, the Council assumes that:

- a. any personal information provided by residents and/or ratepayers is free from errors and omissions, is not misleading or deceptive and complies with all relevant laws; and
- b. residents and/or ratepayers have the necessary authority to provide any personal information submitted to the Council.

The Council may obtain information concerning ratepayers or residents from a number of sources including Centrelink, the State Electoral Office, Office of the Valuer General, SA Water and from ratepayers and residents. The Council may not necessarily check or verify the accuracy of any personal information it obtains from residents and/or ratepayers or other persons.

It is the responsibility of residents and/or ratepayers to provide the Council with details of any changes to their personal information as soon as reasonably practicable.



3.2 Maintenance and Storage of Personal and Sensitive Information

The Council will take reasonable steps and use appropriate security mechanisms to ensure that the personal information held by the Council is protected from misuse and loss, and from unauthorised access, modification or disclosure.

In the event of a data breach involving TFN information, Council will take the following steps:

- contain the data breach;
- within 30 days of the event, assess if the data breach is an eligible data breach;
- take remedial action to prevent the unauthorised access or disclosure of TFN information;
- notify the Australian Information Commissioner and affected individuals where there is an eligible data breach;
- review the incident, report to other relevant bodies and take preventative action to ensure that a similar incident does not occur again.

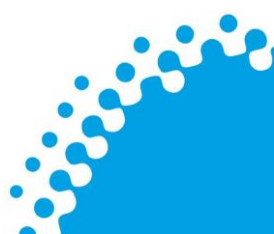
Council will maintain its record keeping systems to ensure that all personal information collected is up to date and complete as is reasonably practical.

Any person who, on behalf of the Council, uses or discloses personal information held by the Council must have appropriate authorisation to do so.

3.3 Use of Personal and Sensitive Information

Council will take reasonable steps to:

- use personal information only for the purpose in which it was obtained and the operation and effective delivery of Council programs and services or relevant projects and programs occurring within the Council area;
- ensure that the information is accurate, up to date and complete prior to use;
- ensure access to TFN information is only provided for authorised purposes;
- apply the objects and methods of the Freedom of Information Act 1991 in such a way to favour the disclosure of information without infringing the right to privacy while meeting legal requirements; and
- prevent disclosure of personal information for a purpose that is not relevant or incidental to, or connected with that purpose, unless:
 - Council first takes reasonable steps to obtain the consent of the person concerned to use their personal information for that other purpose;
 - Council believes, on reasonable grounds, that use of the personal information is necessary to prevent or lessen a serious and imminent threat to the life or health of the subject or of some other person;
 - the use of the personal information is required and authorised by law; or
 - the use of the personal information for that other purpose is reasonably necessary for the enforcement of the criminal law or law imposing a pecuniary penalty.



3.4 Disclosure of Personal and Sensitive Information

When considering disclosure of personal information, Council will apply the objects and methods of the Freedom of Information Act 1991 in such a way to favour the disclosure of information without infringing the right to privacy while meeting legal requirements.

The Council will not provide personal information it holds on residents and/or ratepayers to third parties unless specifically required to by law and after following relevant consultation requirements, except:

- where the resident and/or ratepayer has made a written request for personal information to be provided to a third party;
- where the provision of personal information is for the purpose of distributing materials for the sole purpose of and on behalf of the Council (e.g. the provision of address data for use by a mailing service provider to post or electronically transmit Rates Notices);
- where the third party has been contracted by the Council to provide advice or services for the sole purpose of assisting the Council to provide benefits to residents and/or ratepayers (e.g. State Electoral Office, Office of the Valuer General, insurers);
- where the Council is required by legislation to provide personal information to a third party (e.g. provision of personal information to the State Electoral Office) or to the public at large in accordance with the Local Government Act or to an applicant under the Freedom of Information Act where the information is not otherwise exempt; and
- where the resident and/or ratepayer has been advised of the 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.
- As part of the public notification required and related to lodgement of a development application.

Before the Council will provide personal information to a third party service provider (e.g. provision of personal information to the Fines Enforcement & Recovery Unit) that is subject to the provisions of the Privacy Act, that supplier will be required to provide a signed Privacy Undertaking to Council that it will comply with the Privacy Act and the National Privacy Principles in respect to the collection, use and handling of personal information supplied by the Council.

The 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.

The Council does not accept any responsibility for any loss or damage suffered by residents and/or ratepayers because of their reliance on any personal information provided to them by the Council or because of the Council's inability to provide residents and/or ratepayers with any requested personal information.

Before relying on any personal information, the Council provides to residents and/or ratepayers, the Council expects that residents and/or ratepayers will first seek confirmation from the Council about the accuracy and currency of such personal information.

3.5 Access to, and Amendment of, Personal Information

Residents and/or ratepayers who wish to access the personal information that the Council holds in relation to them can do so by contacting the Customer Contact staff at the Civic Centre. These requests will be dealt with as soon as is reasonably practical, based on the nature of the information requested. The person making the request will need to satisfy Customer Contact staff of their identity.

For enquires not made in person (e.g. via phone, fax or email), information will only be sent to a currently held postal or residential address, not to return fax, email account or provided over the phone. Information may also be collected from Civic Centre Customer Contact staff with prior arrangement, provided that suitable identification is provided at time of collection.

If resident and/or ratepayer can show that the personal information held by Council is not accurate or complete, it will be amended by the Customer Contact staff.

Council acknowledges that it has certain personal information in its possession that it is legislatively required to make available for access by members of the public. There is also provision under the Freedom of Information Act for members of the public to apply for information from Council.

3.6 Suppression of Personal Information

A person's name and/or address may be suppressed from the Council's Assessment Record and Voters Roll where the Chief Executive Officer of the Council or delegate is satisfied that the inclusion of the name and/or address on the Assessment Record and/or Voters Roll would risk the personal safety of that person, a member of the person's family, or any other person.

Enquiries regarding the suppression of information should be directed to Customer Contact staff.

3.7 Council Collaboration & Data Sharing

Where Council has a formal collaboration agreement in place with another Council to share resources and systems to improve efficiencies and deliver better services for our communities, this may necessitate data sharing for the purposes of:

- Enabling data analytics work to be carried out on the data for benchmarking and to identify strategic opportunities.
- Enabling our organisations to facilitate, develop, improve or undertake policy making, program management and/or service planning/delivery.

Our Council will restrict access to shared data to Council agents with appropriate security clearances, role descriptions or qualifications. These restrictions are managed and enforced through an internal procedure which prescribes how Council agents may access and use shared systems, and specifically that they may purposefully access data and/or personal information for residents outside their Council district.



3.8 Complaints

Residents and/or ratepayers who have any concerns regarding how the Council handles personal information or require further information should contact the Customer Contact staff at the Civic Centre in the first instance.

If Customer Contact staff cannot satisfy the residents and/or ratepayers concerns, the person may lodge a formal complaint. Complaints should be made in writing to:

City of Port Adelaide Enfield
PO Box 110, Port Adelaide SA 5015
service@cityofpae.sa.gov.au

3.9 Copyright considerations under the Freedom of Information Act 1991

Applications for disclosure of copyright protected works may be made by a person under the Freedom of Information Act, and such applicants may request that access to Council documents be given in a particular way, eg inspection, hard copies or electronic copies.

Council cannot lawfully reproduce works protected by copyright for the purpose of providing access under the Freedom of Information Act without the prior permission of the copyright owner.

Section 22(2) (c) of the Freedom of Information Act provides that where an applicant has requested that a copy of a document be provided to them, an alternative form of access may be given where otherwise providing a copy would involve an infringement of copyright in matter contained in the document.

In order to avoid infringing copyright, Council should consider providing access to copyright-protected documents only by way of inspection, unless:

- the applicant is the owner of copyright in those documents; or
- the applicant has obtained the written permission of the owner of copyright in those documents to have them copied; or
- the applicant or Council's Freedom of Information Officer have documented reasonable enquiries to locate the copyright owner without success or documented that the copyright owner is no longer trading or practising as the case may be.

Council will take a risk management approach to the disclosure of copyright protected information by way of assessing the likelihood of action being pursued against it if that information was reproduced for the purposes of providing access to it in connection with an FOI application. By way of example, if the copyright owner of a certain document is a company that has been deregistered, then the risk of action being pursued against the Council is remote at best. In this case, the Council could reasonably determine to provide a copy of the information to the applicant, notwithstanding that to do so would constitute a copyright infringement.

4. ROLES AND RESPONSIBILITIES

The Governance Team are responsible for the implementation and management of the policy.

5. DEFINITIONS

Access - 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 of the personal information.

Collection - 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 –Voluntary agreement to some act, practice or purpose.

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

Council agent – A council employee, contractor, authorised person or third-party service provider engaged by the council to undertake specific duties.

Eligible Data Breach - An eligible data breach for Council is when the unauthorised access, disclosure or loss of TFN information is likely to result in serious harm to one or more individuals.

Council will need to notify the Australian Information Commissioner and affected individuals of an eligible data breach concerning TFN information.

Notifiable Data Breach (NDB) Scheme - Councils are subject to the NDB Scheme under the Privacy Act 1988 (Cwth) to the extent that TFN information is involved in an eligible data breach. The NDB Scheme places a notification obligation on councils when a data breach, involving TFN information, is likely to result in serious harm to any individual whose TFN information was involved in the breach.

Personal information – 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 - 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;
- gender;
- criminal record; or
- health.

TFN - Tax File Number

TFN information includes information, whether recorded in a material form or not, that records the tax file number of a person in a manner connecting it with a person's identity (e.g. a person's name and date of birth). Council, as an employer, is in receipt of TFN information.

Use - The handling of personal information within a Council including the inclusion of information in a publication.

