

Trim Container	FOL/17/1661
Trim Document Number	DOC/19/76169
First Issued / Approved:	08/08/2017
Last Reviewed:	08/10/2019
	C081019/1635
Next Review:	07/10/2023
Responsible Officer	Team Leader Governance
Date Placed on Web	09/10/2019

1. PREAMBLE

The City of Holdfast Bay is committed to maintaining a culture that respects each individual’s right to privacy. This Policy outlines Council’s commitment to the management of personal information.

1.1 Background

The Commonwealth *Privacy Act 1988 and the Privacy Amendment Act (Privacy Amendment (Enhancing Privacy) Act 2012)* set out the principles that must be followed by Commonwealth Government agencies and many private organisations in relation to the management, collection, use, storage and disclosure of personal information.

The provisions of the *Privacy Act 1988* do not apply to South Australian Councils, however it is the intention of Council that its policies and practices in relation to privacy should be, so far as is reasonably practicable, consistent with the Information Privacy Principles and the National Privacy Principles set out in the Act, as Council acknowledges that these set an appropriate standard for privacy protection and apply for some funding arrangements.

1.2 Purpose

This policy outlines Council’s process for the collection, use, storage and disclosure of personal information by Council.

1.3 Scope

This policy applies to Elected Members, employees, volunteers, contractors and agents of the City of Holdfast Bay but excludes any privacy requirements managed under Alwyndor’s Privacy Policy

1.4 Definitions

Personal Information- is defined by the *Privacy Act 1988* 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 reasonably be ascertained, from the information or opinion’.

Personal information can include:

- (a) written records about a person,
- (b) a photograph or image of a person,
- (c) information about a person that is not written down but is in the possession or control of the Council. Even if the person is not named the test is whether or not the person's identity can 'reasonably be ascertained' from the information. As long as information is being communicated to someone who can identify the person it is about, the information may meet the definition of 'personal information'.

Personal information does not include:

- (a) generally available information;
- (b) material kept in public records and archives, such as the State and Commonwealth Archives;
- (c) anything kept in a library, art gallery or museum for the purpose of reference, study or exhibition.

Access - may include allowing an individual to inspect personal information or to obtain a copy of information about himself or herself that is held by the Council.

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.

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

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.

1.5 Strategic Reference

Culture: Supporting excellent, efficient operations

2. PRINCIPLES

2.1 Collection of Personal Information

2.1.1 The Council will not collect personal information unless:

- (a) The personal information is collected for a lawful purpose directly related to a legislative function or power of the Council or Council business operations;
- (b) Collection of the personal information is necessary for or directly related to that purpose; and
- (c) Permission has been given by the person whose personal information is being collected.

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

- Telephone numbers;
- Name and addresses (postal, residential and e-mail addresses);
- Health related information relevant to provision of government subsidised support services;
- Age and/or date of birth;
- Property ownership and/or occupier details;
- Details of resident's/ratepayer's spouse or partner;
- Development applications, including plans or specifications of buildings;
- Pet ownership;
- Electoral roll details;
- Pensioner / concession information;
- Payment history;
- Financial, rental or income details;
- Details of land valuation;
- Preferred addresses and methods of contacts;
- Details of employment; and
- Insurance details.

2.1.3 All personal information that is collected by Council will be collected in a fair and lawful manner.

2.1.4 All personal information that is collected by Council for the purposes of research will be treated within the Market and Social Research Privacy Principles (Refer to the *Market and Social Research Privacy Code 2014*).

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

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

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

- 2.1.7 The Council will take reasonable steps to ensure that the collection of personal information by it does not unreasonably intrude upon an individual's personal affairs.
- 2.1.8 The Council may collect information concerning persons from a number of private and public sector agencies, which may include, but is not limited to: the Office of the Valuer General, SA Water, Telstra and from individual persons.

2.2 Collection of Sensitive Information

- 2.2.1 The Council will not collect sensitive information about an individual unless:
 - (a) The individual has consented;
 - (b) The collection is required by law;
 - (c) The collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any person; or
 - (d) The collection is necessary for the establishment, exercise or defence of a legal or equitable claim.
- 2.2.2 If the Council collects sensitive information about an individual in accordance with the provisions of this Policy, the Council will take reasonable steps to de-identify the information before the Council discloses it.

2.3 Maintenance and Storage of Personal information

- 2.3.1 The 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.
- 2.3.2 The Council will take reasonable steps to:
 - (a) Protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure; and
 - (b) Maintain its record keeping systems to ensure that all personal information collected is up to date, accurate and complete as far as reasonably practicable; and
 - (c) Ensure that any person who, on behalf of the Council, uses or discloses personal information held by the Council has appropriate authorisation to do so.

2.4 Use of Personal Information

- 2.4.1 Where the 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:
 - (a) The Council first takes reasonable steps to obtain the consent of the individual concerned to use his or her personal information for that secondary purpose; or

- (b) The individual would reasonably expect the 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
- (c) The 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
- (d) Use of the information for that secondary purpose is required or authorised by law; or
- (e) Use of the information for that secondary purpose is reasonably necessary for the enforcement of the criminal law or of law imposing a pecuniary penalty.

2.5 Direct Marketing:

- 2.5.1 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).
- 2.5.2 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 direct marketing.
- 2.5.3 Council must provide a simple means by which the individual may easily request not to receive direct marketing communications from Council.
- 2.5.4 Council will only use or disclose sensitive information about an individual for direct marketing purposes if the individual has consented to the use or disclosure of the information for that purpose.

2.6 Disclosure of Personal Information

- 2.6.1 The Council will not disclose personal information it holds about a person to a third party, except where:
 - (a) A reasonable individual is likely to have been aware that his or her personal information would be disclosed in that way;
 - (b) The resident or ratepayer has consented to or made a written request for personal information to be provided to a third party;
 - (c) The personal information is provided for the purpose of distributing materials of and on behalf of the Council (for example: the provision of address data for use by a mailing service provider to post Rates Notices or other materials);

- (d) The third party has been contracted by the Council to provide advice or services for the purpose of assisting the Council in providing benefits to persons (for example: State Electoral Office, Office of the Valuer General, insurers, legal service providers, government subsidised support services etc);
- (e) The Council is required or authorised by law to disclose the personal information to a third party or to the public at large (for example, under the Freedom of Information Act);
- (f) The resident 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; or
- (g) 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.

2.6.1 Where personal information is provided to the Council by a person "in confidence", the 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 Freedom of Information Act).

2.6.2 The Council will take reasonable steps to:

- (a) Contract only with third party service providers that are subject to the provisions of the Privacy Act and the National Privacy Principles; and
- (b) Where the third party service provider is not subject to the provisions of the Privacy Act 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 the Council.

2.6.3 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.

2.6.4 The 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 the Council or because of the Council's inability to provide persons with any requested personal information.

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

2.7 Integrity and Alteration of Personal Information

- 2.7.1 The 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 the Council with details of any changes to their personal information as soon as reasonably practicable following such change.
- 2.7.2 The 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.
- 2.7.3 A person may apply to the Council, in a form determined by the Council, to have his or her personal information amended so that it is accurate, relevant, complete, up-to-date and not misleading. Where the Council, on reasonable grounds, decides not to amend a resident's or ratepayer's personal information in the manner requested in the application, the Council will inform the person of its decision and the reasons for refusing to make the requested amendments. If requested by a resident or ratepayer, the 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.

2.8 Access to Personal Information

- 2.8.1 A person who wishes to access personal information held by the Council must make a written application to the Freedom of Information Officer. An applicant will be required to pay an application fee as determined by the *Freedom of Information Act 1991*.
- 2.8.2 Subject to the provisions of this legislation, the Council may grant or refuse access to personal information as it deems fit.
- 2.8.3 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.
- 2.8.4 An application to access personal information will be dealt with within 30 days of receipt of the request or in accordance with the *Freedom of Information Act 1999*. In certain circumstances, an applicant may be required to satisfy Council staff as to his or her identity.

2.9 Suppression of Personal Information

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

- 2.9.2 Enquiries regarding suppression of personal information should be directed to Customer Services staff at the Customer Service Centre in the first instance.
- 2.10 Freedom of Information
- 2.10.1 Personal information may be released to others if requested under the *Freedom of Information Act 1999*, however, in accordance with this Act, a person will be consulted to obtain their opinion on release of the information. Should it be determined the information will be released against the view of the person, they have the right to request a review of the decision, on payment of the prescribed fee, prior to the information being released.
- 2.12 Disclaimer
- 2.12.1 The Council does not accept any responsibility for any loss or damage suffered by residents, ratepayers or other persons because of their reliance on any personal information provided to them by the Council or because of the Council's inability to provide residents, ratepayers or other persons with any requested personal information.
- 2.12.2 Before relying on any personal information that the Council provides it is expected that the resident, ratepayer or other person will first seek confirmation from the Council about the accuracy and currency of the personal information
- 2.13 Use of Mail Chimp
- 2.13.1 Council's Privacy Policy will not apply to information collected by Mailchimp. The Council uses Mailchimp as a marketing tool to provide electronic newsletters to and communicate with subscribers about the Council and goods and services supplied by the Council and to promote tourism precincts.
- 2.13.2 In distributing newsletters and providing information about the Council and its goods and services, Mailchimp will collect personal information, including email addresses provided for the purpose of receiving electronic newsletters and news about the Council and its goods and services, and all information relating to those email addresses. For further information about the type of information Mailchimp collects, refer to Mailchimp's Privacy Policy and Terms of Use (<https://mailchimp.com/legal/privacy/>).
- 2.13.3 Mailchimp will use the information collected for the purpose of hosting the online platform to enable the Council to create, send and manage electronic newsletters and emails relating to the work of the Council. Mailchimp will also use this information to measure the performance of the Council's email campaigns.
- 2.13.4 Mailchimp may transfer this information to its contractors or other third parties who process the information on Mailchimp's behalf, or where otherwise required to do so by law.

2.13.5 Mailchimp is based in the United States of America (USA) and is subject to the laws of the USA. The information (including IP addresses) will be transmitted to and stored by Mailchimp on servers located outside Australia.

2.13.6 By signing up to a Mailchimp mailing list, the subscriber:

- consents to personal information being collected, used and disclosed as set out in these terms and conditions, and in Mailchimp's Privacy Policy and agree to abide by Mailchimp's Terms of Use;
- consents to personal information being sent and stored overseas, and acknowledges that Australian Privacy Principle 8.1 contained in Schedule 1 to the Privacy Act 1988 (Cth) will not apply;
- acknowledges that the Council is not subject to the Privacy Act 1988 (Cth) and will not be able to seek redress under the Privacy Act 1988 (Cth) for any privacy breaches by the Council;
- acknowledges that Mailchimp is not subject to the Privacy Act 1988 (Cth) and you will be able to seek redress under the Privacy Act 1988 (Cth) for any privacy breaches by Mailchimp but will need to seek redress under the laws of the USA.

2.14 Event Bookings

The City of Holdfast Bay uses third party booking systems to manage its event bookings. Please note to register for an event through a third party online booking system, users and subscribers agree to the third party booking systems' Privacy Policy (available on their respective websites) which sets out how they collect, use and handle Personal Information that they collect.

2.15 Complaints

Residents, ratepayers or other persons that have any concerns regarding how the Council handles their personal information, or require further information, should contact the Chief Executive Officer in the first instance.

A formal complaint may be lodged in writing addressed to the Chief Executive Officer, City of Holdfast Bay either by email to mail@holdfast.sa.gov.au, post to PO Box 19, BRIGHTON SA 5048 or delivery to the Brighton Civic Centre, 24 Jetty Road, BRIGHTON SA 5048:

3. REFERENCES

3.1 Legislation

- *Local Government Act 1999*
- *Development Act 1993*
- *Public and Environmental Health Act 1987*
- *Freedom of Information Act 1991*
- *State Records Act 1997*
- *Listening and Surveillance Devices Act 1972*
- *Telecommunications (Interceptions) Act 1988*
- *Privacy Act 1998*
- *Information Privacy Principles Instruction (as amended by Cabinet 18 May 2009)*
- *Privacy Amendment Act (Privacy Amendment (Enhancing Privacy) Act 2012*

3.2 Other References

- Customer Feedback and Complaints Policy
- Internal Review of Council Decisions Policy
- Alwyndor's Privacy Policy