



Privacy Management Plan

Policy Statement:

Coffs Harbour City Council (CHCC) is committed to protecting the privacy of our customers, business contacts and employees.

The Privacy Management Plan details how CHCC manages the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities.

Director or Manager Responsible for Communication, Implementation and Review:

Director, Corporate Business.

Does this document replace an existing policy or plan?

Yes

Privacy Management Plan, adopted 15/12/2005

Related Legislation, Department of Local Government Circulars or Guideline:

Privacy and Personal Information Protection Act (1998) (PIPPA)

Health Records and Information Privacy Act 2002 (HRIPA)

Government Information (Public Access) Act 2009 (GIPA)

Application:

It is mandatory for all staff, Councillors and delegates of Council to comply with this document.

Approved by:

Executive Team [Meeting date]

Council Meeting: 10/02/2011

Resolution No. CB11/2

Signature:

General Manager

Date of Effect: 11 February 2011

Date of next Review:

Date of Distribution:

Datworks Number: 2729798

OBJECTIVES

Council collects and holds personal and health information for the purpose of facilitating its business. It is important that the use of this information is confined to the purpose for which it is acquired. In order to properly manage the personal information it holds it is essential for the provisions of this policy to be observed by Council officials, employees and contractors.

This Plan is prepared in accordance with the requirements of Section 33 of the Privacy and Personal Information Protection Act (PIPPA) and Council is required to comply with the principles of the Act and Health Records Information Privacy Act 2002 No 71 (HRIPA) in providing personal information.

1. Definitions

Personal information is defined as: "any information or any opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form"

Health information is defined as:- personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual; **or** an individual's express wishes about the future provision of health services to him or her; **or** a health service provided; **or** to be provided, to an individual.

2. Policy content

Privacy Principles (PIPPA)

1. The Council will not collect personal information unless:

- 1.1 information is collected for a lawful purpose that is directly related to a function or activity of Council, and
- 1.2 the collection of the information is reasonably necessary for that purpose.

The Council will not collect personal information by any unlawful means.

2. When collecting personal information, Council will collect information only from the individual to whom the information relates unless:

- 2.1 the individual has authorised collection from someone else, or
- 2.2 in the case of information relating to a person who is under the age of 16 – the information has been provided by a parent or guardian of the person.

3. When Council collects personal information about an individual, that person will be notified of:

- 3.1 the fact that the information is being collected,
- 3.2 the purpose for which the information is collected,
- 3.3 the intended recipients of the information,
- 3.4 whether the supply of the information is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- 3.5 the existence of any right of access to, and correction of, the information,
- 3.6 the name and address of Council.

4. Council will take reasonable steps to ensure that:
 - 4.1 information collected is relevant to a purpose, is not excessive, is accurate, up to date and complete, and
 - 4.2 the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.
5. With regards to the retention and security of personal information, Council will ensure:
 - 5.1 that information is used for a lawful purpose and is kept for no longer than is necessary,
 - 5.2 that the information will be disposed of securely,
 - 5.3 that the information is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse (as are reasonable in the circumstances,) and
 - 5.4 if it is necessary to release the information to a person in connection with the provisions of a service of Council, everything reasonable is done to prevent unauthorised use or disclosure of the information.

The culling and destruction of records is carried out by the Chief Information Officer in accordance with the General Records Disposal Schedule for Local Government in NSW.

6. If Council holds personal information about any individual it must take the necessary steps to enable any person to ascertain:
 - 6.1 whether the Council holds personal information; and
 - 6.2 whether the Council holds personal information relating to that person, and
 - 6.3 if Council holds personal information relating to that person:
 - 6.3.1 the nature of that information; and
 - 6.3.2 the main purposes that the information is being used, and
 - 6.3.3 that person's entitlement to gain access to that information.

7. Any person will be able to ascertain whether Council holds their personal information:

Upon request, by application under Council's Access to Information Policy, an individual will be provided with access to their personal information without excessive delay or expense.

8. Any person who is concerned with the accuracy or acceptable use of their personal information kept by Council, may request amendments be made to that information by writing to the General Manager to ensure that the information is relevant, up to date, complete and not misleading.

Council has an obligation to take such steps to amend personal information where necessary. If Council decides that it will not amend the information, it must add the additional information, so it can be read with the existing information and the individual notified. The individual to whom the information relates is entitled to have the recipients notified of the amendments made by Council.

9. Council will take reasonable steps to ensure the accuracy of personal information prior to use, having regard to the purpose it was collected, its proposed use, its relevance, accuracy, whether it is up to date, complete and not misleading.
10. Council will not use personal information for a purpose other than for which it was collected unless:

- 10.1 the individual to whom the information relates has consented to use the information for that other purpose, or
- 10.2 the other purpose for which the information is used is directly related to the purpose for which it was collected, or
- 10.3 the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom that information relates or of another person.

11. Council will take reasonable care not to disclose personal information unless:

- 11.1 the disclosure is directly related to the purpose for which it was collected and there is no reason to believe the individual concerned would object; or
- 11.2 the individual has been made aware that this kind of information is usually released; or
- 11.3 disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.

12. Council will take reasonable care not to disclose personal information that:

- 12.1 relates to an individual's ethnic or racial origin, political opinions, religion or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
- 12.2 relates to any enquiry from anyone outside the state of New South Wales unless:
 - 12.2.1 a relevant privacy law applies to personal information in force in that jurisdiction, or
 - 12.2.2 the disclosure is permitted under privacy code of practice (a law determined by the Privacy Commissioner and published in the Government Gazette).

INFORMATION ACCESS – PUBLIC REGISTERS

This Policy and the Privacy and Personal Information Protection Act 1998 does not affect the operation of the Government Information (Public Access) Act 2009 (GIPA), Local Government Act 1993 and Environmental Planning and Assessment Act 1979.

Council will not disclose personal information kept in a Public Register unless the information is to be used for a purpose relating to the purpose of the Register or Act under which the register is kept.

REVIEW OF CERTAIN CONDUCT (INTERNAL REVIEW PROCESS) PART 5 CLAUSES 52 AND 53 PIPP ACT

Where a person who has requested information is aggrieved by the conduct of Council in the following circumstances:

- (a) contravention of a privacy principle that applies to Council;
- (b) contravention of a code of practice that applies to Council;
- (c) disclosure of personal information kept on a public register;

The person (applicant) is entitled to apply for an Internal Review.

The application for review must be in writing and addressed to:

The General Manager
Coffs Harbour City Council
Locked Bag 155
Coffs Harbour NSW 2450

The application must be lodged six months from the time the applicant first became aware of the conduct (the subject of the application).

The application will be dealt with by the Public Officer, who will consider any relevant material submitted by either the applicant or the Privacy Commissioner.

The review will be completed within 60 days from receipt of the application.

Upon completion of the review, Council may do one or more of the following:

- (a) take no further action on the matter,
- (b) make a formal apology to the applicant,
- (c) take appropriate remedial action,
- (d) provide undertakings that the conduct will not occur again,
- (e) implement administrative measures to ensure that the conduct will not occur again.

Within 14 days of the completion of the review, Council will notify the applicant in writing of:

- (a) the findings and the reasons for those findings;
- (b) any proposed actions to be taken and the reasons for taking that action;
- (c) the right of the applicant to have those findings and the Council's proposed action, reviewed by the Administrative Appeals Tribunal.

Privacy Principles HRIPA 2002 No 71 - (Schedule 1 Section 1 to 10 included)

The spirit of the HRIPA applies to every Council that is a health service provider or that collects, holds or uses health information. Council is required to comply with the Health Privacy Principles and with any health privacy code of practice or provision of Part 4 that is applicable.

Council must not engage in any practice, that contravenes a Health Privacy Principle or a health privacy code of practice or a provision of Part 4 in respect of which Council is required to comply.

1. Council must not collect health information unless:
 - 1.1 the information is collected for a lawful purpose that is directly related to a function or activity of the organisation, and
 - 1.2 the collection of the information is reasonably necessary for that purpose. Council must not collect health information by any unlawful means.
2. When Council collects health information from an individual they must take reasonable steps to:
 - 2.1 ensure that the information collected is relevant to that purpose, is not excessive and is accurate, up to date and complete, and
 - 2.2 that it does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.
3. Council must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so and, it is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.

4. Council will take reasonable steps to ensure that:

Health information about an individual from the individual must, at or before the time that it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the circumstances to ensure that the individual is aware of the following:

- 4.1 the identity of the organisation and how to contact it,
- 4.2 the fact that the individual is able to request access to the information,
- 4.3 the purposes for which the information is collected,
- 4.4 the persons to whom (or the types of persons to whom) the organisation usually discloses information of that kind,
- 4.5 any law that requires the particular information to be collected,
- 4.6 the main consequences (if any) for the individual if all or part of the information is not provided.

5. With regards to the retention and security of health information Council will ensure:

- 5.1 the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- 5.2 the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and
- 5.3 the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- 5.4 if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of the organisation is done to prevent unauthorised use or disclosure of the information.

6. If Council holds health information about any individual it must take the necessary steps to enable any individual to:

- 6.1 ascertain whether the Council holds health information, and
- 6.2 ascertain whether the Council holds health information relating to that individual, and
- 6.3 if the Council holds health information relating to that individual:
 - 6.3.1 the nature of that information, and
 - 6.3.2 the main purposes for which the information is used, and
 - 6.3.3 that person's entitlement to request access to the information.

7. Any person will be able to ascertain whether Council holds their health information.

Upon request, by application under Council's Access to Information Policy, any person will be provided with access to their health information without excessive delay or expense.

8. Any person who is concerned with the accuracy or acceptable use of their health information, kept by Council, may request amendments be made to that information by writing to the General Manager to ensure that the information is relevant, up to date, complete and not misleading.

9. Council will take reasonable steps to ensure the accuracy of health information prior to use, having regard to the purpose it was collected, its proposed use, its relevance, accuracy, whether it is up to date, complete and not misleading.

10. Council will not disclose health information for a purpose (a *secondary purpose*) other than the purpose (the *primary purpose*) for which it was collected unless:

- 10.1 the individual to whom the information relates has consented to the use of the information for that secondary purpose, or
- 10.2 the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the secondary purpose, or
- 10.3 the use of the information for the secondary purpose is reasonably believed by the Council to be necessary to lessen or prevent:
 - 10.3.1 a serious and imminent threat to the life, health or safety of the individual or another person, or
 - 10.3.2 a serious threat to public health or public safety, or
- 10.4 the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health
- 10.5 the use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation
- 10.6 the use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:
- 10.7 the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or
- 10.8 The Council may use health information as a necessary part of its investigation or in reporting its concerns to relevant persons or authorities if the Council has reasonable grounds to suspect that:
 - 10.8.1 unlawful activity has been or may be engaged in, or
 - 10.8.2 a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a health registration Act, or
 - 10.8.3 an employee of Council has or may have engaged in conduct that may be grounds for disciplinary action, and
 - 10.8.4 the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or
 - 10.8.4.1 the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or
 - 10.8.4.2 the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.

The Council will not collect health information by any unlawful means.

Training and Education

All new staff will receive a copy of the CHCC Privacy Management Plan at induction.

The CHCC Privacy Management Plan will be reviewed at regular intervals.

3. Responsibilities

Position	Directorate	Responsibility
General Manager	Executive	To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this Plan.
Directors	All Directorates	To communicate, implement and comply with this Plan and any related Guidelines.
Manager, Governance and Legal Services	Executive	To ensure (directly or through delegation) the distribution and communication of this Plan to specified persons and to ensure (directly or through delegation) the approved Plan and any related Guidelines are available in hard copy and electronically on Council's website.
Exec Manager, Human Resources	Corporate Business	To implement this Plan and any related procedures.
Chief Information Officer	Corporate Business	To comply and ensure all records are maintained in accordance with this Privacy Management Plan.
All Council officials	Council	To comply with this Plan and any related procedures.

4. References

Privacy and Personal Information Protection Act (1998) (PIPPA)

Health Records and Information Privacy Act 2002 (HRIPA)

Government Information (Public Access) Act 2009 (GIPA)

5. Table of Amendments

Amendment	Authorised by	Approval reference	Date