

Policy Title	Privacy Management
Related Documentation	Access to Information Policy Records Management Policy Campbelltown City Council Information Guide Councillor's Access to Information and Interaction with Staff Policy
Relevant Legislation	<i>Privacy and Personal Information Protection Act 1998</i> <i>Health Records and Information Privacy Act 2002</i> <i>Government Information (Public Access) Act 2009</i> <i>Government Information (Public Access) Regulation 2018</i> <i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2005</i> <i>Copyright Act 1968 (Cth)</i> <i>Environmental Planning and Assessment Act 1979</i> <i>State Records Act 1998</i>
Responsible Officer	Manager Governance and Risk

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

## Objectives

The main objective of this policy is to inform the community and educate staff on access to personal information and introduce Council policies and procedures to maximise compliance with the *Privacy and Personal Information Protection Act 1998* (the PPIP Act) and the *Health Records and Information Privacy Act 2002* (the HRIP Act).

## Policy Statement

Campbelltown City Council is committed to protecting the privacy of our customers, business contacts, Councillors, employees, contractors and volunteers.

This policy aims to ensure Campbelltown City Council manages the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities.

This policy has been developed in order to outline that Council collects and retains 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 retains, it is essential for the provisions of this policy to be observed by Councillors, employees, contractors and external stakeholders.

### Scope

DATA AND DOCUMENT CONTROL		
<b>Division:</b> City Governance	<b>Adopted Date:</b> 09/07/2019	
<b>Section:</b> Governance and Risk	<b>Revised Date:</b> 09/07/2019	
<b>DocSet:</b> 6548348	<b>Minute Number:</b> 136	
	<b>Review Date:</b> 30/09/2021	<b>Page:</b> 1 of 13

The Privacy Management Policy applies to the public, Campbelltown City Council staff and Councillors.

### **Legislative Context**

The PPIP Act requires all public sector agencies to prepare, implement and review their Privacy Management Plan on a regular basis. The Information and Privacy Commission guidelines for Privacy Management Plans recommend review at least every two years. This policy outlines how Campbelltown City Council complies with the legislative requirements of the PPIP Act, the HRIP Act and the Privacy Code of Practice for Local Government [Code].

### **Effectiveness of this Policy**

The Policy will be reviewed in accordance with Council's adopted Procedure for Policy Development and Review to ensure the framework to manage disclosures is effective and meets current legislative requirements.

## **PART 1 - INTRODUCTION**

### **1.1 What is Personal Information?**

Personal information is defined in section 4 of the PPIP Act as:

“information or an 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”.

### **1.2 What is not Personal Information?**

Personal information does not include information about an individual that is contained in a publicly available publication. Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIP Act.

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIP Act (for example, a formal or informal request under the *Government Information (Public Access) Act 2009* [the GIPA Act]).

In accordance with the GIPA Act, when inviting public submissions Council will advise people that their submission, including any personal information in the submission, may be made publicly available.

### **1.3 What is Health Information?**

Health information is defined in section 6 of the HRIP Act 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”.

### **1.4 Application of this Policy**

The PPIP Act, HRIP Act and this Policy apply, wherever practicable, to:

- Councillors
- Council employees
- Consultants and contractors of the Council
- Volunteers

- Council owned businesses and
- Council Committees (including those which may be established under section 355 of the *Local Government Act 1993* [the LG Act]).
- Customers, ratepayers and residents

### **1.5 Personal and Health Information held by Council**

The Council holds personal information concerning Councillors, such as but not limited to:

- personal contact information
- complaints and disciplinary matters
- disclosure of interest returns and
- entitlements to fees, expenses and facilities

The Council holds personal and health information concerning its customers, ratepayers and residents, in records such as but not limited to:

- rates records
- customer requests, complaints and claims
- library lending records
- fitness records
- community service utilisation e.g. Community Transport
- CCTV footage
- donation, grant and sponsorship applications
- submissions and information collected as part of Council's community engagement and consultation activities
- public access forum applications and
- development applications and related submissions.

The Council holds personal and health information concerning its current and former employees in records such as but not limited to:

- recruitment material
- pre-employment medical information
- workers compensation investigations
- public interest disclosure investigations
- leave and payroll data
- personal contact information
- performance management plans
- disciplinary matters
- disclosure of interest returns and
- wage and salary entitlements.

### **1.6 Unsolicited Information**

Unsolicited information is personal or health information received by Council in circumstances where Council has not asked for or required the information to be provided. It includes gratuitous or irrelevant information received.

Such information is not deemed to have been collected by Council but the retention, use and disclosure principles of the information will apply to any such information in Council's possession. Personal information contained in petitions received in response to a call for submissions or unsolicited petitions tabled at Council meetings will be treated the same as any other submission and be made available for release to the public.

### **1.7 Applications for Access to own Personal or Health Information**

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Pursuant to Section 14 of the PPIP Act, Council must at the request of the individual to whom the information relate and without excessive delay or expense, provide the individual with access to the information.

Additionally, Section 15 of the PPIP Act requires Council, at the request of the individual to whom the information related, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:

- a) Is accurate, and
- b) Having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

Individuals wanting to access Council's records to confirm or amend their own personal or health information, such as updating contact details can do so by contacting Council either in person or in writing. Council will take steps to verify the identity of the person requesting access or changes to information.

Where a person makes an application for access under the PPIP Act which is involved or complex, and requires a formal determination, Council will provide a response within 20 working days of the application being made.

### **1.8 Accessing or Amending other People's Personal or Health Information**

Council is restricted from giving individuals access to someone else's personal and health information unless that person provides us with written consent. An "authorised" person must confirm their identification to act on behalf of someone else by providing proof of identity a valid power of attorney to act on the individual's behalf.

There may be other reasons Council may be authorised to disclose personal and health information, such as in the event of a serious and imminent threat to the life, health and safety of the individual, to find a missing person or for compassionate reasons.

Council will not provide access to a person's personal or health information records for any private matter unless compelled to do so for a statutory purpose or to comply with a court order.

## **PART 2 - PUBLIC REGISTERS**

### **2.1 Definition**

A public register is defined in section 3 of the PPIP Act as "a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee)".

Council holds public registers under the LG Act including:

- Land Register
- Records of Approvals
- Register of Disclosures of Interests

Note — this is purely indicative. Council may, by virtue of its own practice, hold other public registers, to which the PPIP Act applies.

Council holds public registers under the *Environmental Planning and Assessment Act 1979* [the EPA Act]:

- Register of consents and certificates

- Record of building certificates

Council holds a public register under the *Protection of the Environment Operations Act 1997* [the POEO Act]:

- Public register of licences

Council holds a public register under the *Impounding Act 1993*:

- Record of impounding

The purpose for each of these public registers is set out in this Policy.

## **2.2 Disclosure of Personal Information Contained in Public Registers**

Pursuant to Section 57 of the PPIP Act, Personal information contained in a public register, other than where required by legislation, will only be disclosed where Council is satisfied that it is to be used for a purpose relating to the purpose of the register.

Disclosure in relation to personal information not contained in a public register must comply with the Information Protection Principles as outlined in this Policy.

A person seeking a disclosure concerning someone else's personal information from a public register must give particulars, in the form of a statutory declaration, as to the intended use of any information obtained from the inspection.

## **2.3 Purposes of Public Registers**

In the following section, by way of guidance only, what might be called the "primary" purpose (or "the purpose of the register") has been specified for each identified register. In some cases, a "secondary purpose" has also been specified, by way of guidance as to what might constitute "a purpose relating to the purpose of the register".

### **Land Register**

The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

### **Records of Approvals**

The primary purpose is to identify all approvals granted under the LGA.

### **Register of Disclosures of Interests**

The primary purpose of this register is to determine whether or not a Council official has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

### **Register of consents and certificates**

The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

### **Record of building certificates**

The primary purpose is to identify all building certificates.

**Public register of licences**

The primary purpose is to identify all licences granted under the POEO Act.

**Record of impounding**

The primary purpose is to identify any impounding action by Council.

**2.4 Secondary purpose of all Public Registers**

Council aims to be open and accountable and it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Disclosure of specific records from public registers would normally be permitted.

Requests for access, copying or the sale of the whole or a substantial part of a public register will not necessarily fit within this purpose. Council will make an assessment as to the minimum amount of personal information that is required to be disclosed with regard to any request.

**2.5 Other Registers**

Council may keep other registers that are not public registers. The Information Protection Principles, this Policy, the Code and the PPIP Act apply to the use and disclosure of information in those registers.

A register that Council keeps that is not a public register is the rates record and Council’s position on this record is as follows:

**Rates Record**

The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, a disclosure on a rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is “a purpose relating to the purpose of the register”. Public access to the rates record will only be granted where the purpose of the access is to obtain information necessary for a statutory purpose for which Council has an obligation to comply with such as notifying relevant land owners of development applications and other matters where Council is required or wishes to consult its local community.

**2.6 Applications for Suppression of Personal Information in a Public Register**

Pursuant to Section 58 of the PIPP Act, a person about whom personal information is contained (or is proposed to be contained) in a public register, may request Council to have the information removed from or not placed on the register by submitting an application in the form of a Statutory Declaration.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the person’s personal information, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information.

The information may still be used in the exercise of Council functions, but it cannot be disclosed to third parties.

**PART 3 – POLICIES AND LEGISLATION**

Policies and legislation affecting the processing of information and related to this Policy include:

- Council's Access to Information policy

Public access to information and documents held by Council is facilitated by Council's Access to Information policy. This policy has regard to the GIPA Act, Government Information (Public Access) Regulation 2009 and the LG Act.

This Policy should be read in conjunction with the Access to Information Policy, the Privacy Code of Practice for Local Government and Council's Information Guide.

The above documents are available for viewing at Council's website - [www.campbelltown.nsw.gov.au](http://www.campbelltown.nsw.gov.au).

- *Environmental Planning and Assessment Act 1979* (EPAA)

The EPA Act contains provisions that require Council to make development applications and accompanying information publicly available and provides a right for people to inspect and make copies of elevation plans during the submission period.

The EPA Act is available for viewing at <https://www.legislation.nsw.gov.au/#/view/act/1979/203>

- *Health Records and Information Privacy Act 2002* (HRIPA)

The HRIP Act governs both the public and private sector in NSW. It contains a set of 15 Health Privacy Principles and sets up a complaints mechanism to ensure agencies abide by them.

The HRIP Act is available for viewing at <https://www.legislation.nsw.gov.au/#/view/act/2002/71>

- *Privacy and Personal Information Protection Act 1998* (PPIPA)

In addition to requirements covered in this Policy, the PPIP Act prohibits disclosure of personal information by public sector officers that are not done in accordance with the performance of their official duties. These provisions are generally directed at corrupt or irregular disclosure of personal information staff may have access to at work and not inadvertent failure to follow procedures or guidelines. Corrupt or irregular disclosure can include intentionally disclosing or using personal information accessed in doing our jobs for an unauthorised purpose, or to offer to supply personal information that has been disclosed unlawfully. Offences can be found listed in sections 62-68 of the PPIP Act, are considered serious and may, in some cases, lead to imprisonment.

The PPIP Act is available for viewing at <https://www.legislation.nsw.gov.au/#/view/act/1998/133>

- *Public Interest Disclosures Act 1994* (the PID Act)

The definition of personal information under the PPIP Act excludes information contained in a public interest disclosure. This means that a person cannot seek review of the use or disclosure of a public interest disclosure or be prosecuted for unauthorised disclosure of public interest disclosure information under the PPIP Act.

However, this plan is still able to address strategies for the protection of personal information disclosed under the PID Act.

The PID Act is available for viewing at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) – further information can be obtained from the NSW Ombudsman at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

#### **PART 4 - INFORMATION PROTECTION PRINCIPLES**

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**4.1 Council complies with the Information Protection Principles (IPPs) prescribed under the PPIP Act and Health Privacy Principles (HPPs) prescribed under the HRIP Act as follows:**

**IPP 1 and HPP 1 Lawful collection**

Council will collect personal and/or health information that is reasonably necessary for a lawful purpose that is directly related to its functions and/or activities. Such personal and health information may include names, residential address, phone numbers, email addresses, signatures, medical certificates, photographs and video footage (CCTV).

**IPP 2 and HPP 2 Direct collection**

Personal information will be collected directly from the individual, unless that person consents otherwise. Parents or guardians may give consent for minors.

Health information will be collected directly from the person concerned, unless it is unreasonable or impracticable to do so.

Collection may occur via phone, written correspondence to Council, email, facsimile, Council forms or in person.

**IPP 3 and HPP 3 Requirements when collecting**

Council will inform individuals that their personal information is being collected, why it is being collected and who will be storing and using it. Council will also inform the person how they can view and correct their information. A Privacy Statement is published on Council's website, intranet and included on forms where personal or health information is collected

Council will inform persons why health information is being collected about them, what will be done with it and who might see it. Council will also inform the person how they can view and correct their health information and any consequences if they do not provide their information. If health information is collected about a person from someone else, reasonable steps will be taken to ensure that the person has been notified as above.

**IPP 4 and HPP 4 Relevance of collection**

Personal and health information collected will be relevant to Council's functions and services, accurate, up-to date, complete and not excessive. The collection will not unreasonably intrude into the individual's personal affairs.

Council will rely on the individual to supply accurate, complete information, although in special circumstances some verification processes may be necessary.

**IPP 5 and HPP 5 Secure storage**

Council will store personal information securely, for no longer than as required by the General Retention and Disposal Authorities for Local Government Records issued by State Records Authority of NSW, and will be disposed of appropriately. It will be protected from unauthorised access, use or disclosure by application of appropriate access levels to Council's electronic data management system and staff training.

If it is necessary for the information to be given to a person in connection with the provision of a service to the Council (e.g. consultants and contractors), everything reasonably within the power of the Council is done to prevent unauthorised use or disclosure of the information.

**IPP 6 and HPP 6 Transparent access**

Council stores information for the purpose of carrying out its services and functions and in order to comply with relevant records keeping legislation.

Individuals have a right to request access to their own information to determine what, if any information is stored, how long it will be stored for and how it is stored (e.g. electronically with open or restricted access to staff, in hard copy in a locked cabinet etc.).

Council will provide reasonable details about what personal and/or health information is stored on an individual if they receive an access application from the individual which the information pertains to.

**IPP 7 and HPP 7 Access to own information**

Council will ensure individuals are allowed to access their own personal and health information without unreasonable delay or expense by way of implementation of appropriate procedures for access to this information.

**IPP 8 and HPP 8 Right to request to alter own information**

Council will, at the request of a person, allow them to make appropriate amendments (i.e. corrections, deletions or additions) to their own personal and health information.

Changes of name, address and other minor amendments require appropriate supporting identification or documentation.

Where substantive amendments are involved, an application form will be required and appropriate evidence must be provided as to why the amendment is needed.

**IPP 9 and HPP 9 Accurate use of information collected**

Taking into account the purpose for which the information is proposed to be used, Council will ensure that personal and health information is accurate before using it. Council will ensure that the information it proposes to use is the most recent information kept on file, is not unreasonably out of date or where it is reasonable and necessary to do so, write to the individual to whom the information relates to confirm the accuracy of the information.

**IPP 10 and HPP 10 Limits to use of information collected**

Council will only use personal and health information for the purpose for which it was collected, for a directly related purpose or for a purpose for which a person has given consent. It may also be used without consent in order to deal with a serious and imminent threat to any person's life, health or safety, for the management of a health service, for training, research or to find a missing person. Additionally, a secondary purpose includes investigation of suspected unlawful activity, to exercise complaint handling functions or investigative functions.

**IPP 11 and HPP 11 Restricted and Limited disclosure of personal and health information**

Council will only disclose personal and health information with the individual's consent or if the individual was told at the time of collection that it would do so. Council may also disclose information if it is for a related purpose and it considers that the individual would not object. Personal and health information may also be used without the individual's consent in order to deal with a serious and imminent threat to any person's life, health, safety, for the management of a health service, for training, research or to find a missing person.

Additionally, a secondary purpose includes investigation of suspected unlawful activity, to exercise complaint handling or investigation functions.

### **IPP 12 Special limits on disclosure**

Council will not disclose sensitive personal information relating to an individual's:

- ethnic or racial origin
- political opinions
- religious 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.

Council will not disclose this information to any person or body that is in a jurisdiction outside New South Wales unless:

- a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction, or
- the disclosure is permitted under a Privacy Code of Practice.

### **Specific Health Information Privacy Principles**

Health information is given a higher level of protection regarding use and disclosure than is other personal information. In addition to the privacy principles, above, that apply to both personal and health information, the following four additional principles apply specifically to health information. The specific Health Privacy Principles are:

#### **HPP 12 Unique Identifiers**

Council will only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the Council to carry out any of its functions efficiently.

#### **HPP 13 Anonymity**

Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving any health service(s) from Council.

#### **HPP 14 Transborder data flow**

Health information must only be transferred outside NSW if Council reasonably believes that the recipient is subject to laws or obligations substantially similar to those imposed by the HRIP Act or consent has been given or transfer is under a contract between Council and the individual or transfer will benefit the individual or to lessen a serious threat to an individual's health and welfare, or steps have been taken to ensure that the information will not be handled inconsistently with the HRIP Act or transfer is permitted or required under any other law.

#### **HPP 15 Cross-organisational linkages**

Council will seek the express consent of individuals before participating in any system that links health records across more than one organisation. Health information or the disclosure of their identifier for the purpose of the health records linkage system will only be included if the person has given express consent.

## **4.2 How the Privacy Code of Practice for Local Government affects the IPPs**

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The Privacy Code of Practice for Local Government makes provisions from Councils to depart from IPP's.

The Privacy Code of Practice for Local Government is available for viewing at: <https://www.olg.nsw.gov.au/content/0044-privacy-code-practice-local-government>

## **PART 5 – DISSEMINATION OF THE PRIVACY MANAGEMENT POLICY**

### **5.1 Compliance strategy**

During induction and on a regular basis all employees will be made aware of this Policy and it will be made available for on Council's Intranet and Council's website.

Councillors, employees, contractors and volunteers will be regularly acquainted with the general provisions of the PPIP Act and HRIP Act and, in particular, this Policy, the Information Protection Principles, the Public Register provisions, the Privacy Code of Practice for Local Government and any other applicable Code of Practice.

### **5.2 Communication strategy**

Council informs its employees, Councillors and the community of their rights under the PPIP Act and this Policy by:

- publishing the Privacy Management Policy and associated documents on Council's website together with a link to the Information & Privacy Commission website.
- including privacy statements on application forms and invitations for community engagement

## **PART 6 – COMPLAINTS AND PROCEDURES FOR INTERNAL REVIEW**

### **6.1 Internal Review**

Pursuant to section 53 of the PPIP Act, if an individual is not satisfied with Council's conduct in relation to their privacy request, disclosure of personal information on a public register or believe Council is contravening a privacy principle or privacy code of practice they can make an application for internal review of Council's conduct or decision by writing to Council's Privacy Contact Officer.

The written application must be addressed to Council, include a return postal address in Australia and be received by Council within six months of the individual becoming aware of the conduct or decision that is the subject of the application.

### **6.2 How does the process of Internal Review operate?**

The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer will report their findings to the Privacy Contact Officer.

The review is to be completed within 60 calendar days of receipt of the application. The applicant will be notified of the outcome of the review within 14 calendar days of its determination.

Pursuant to section 54 of the PIPP Act, the NSW Privacy Commissioner will be notified by the Privacy Contact Officer of a review application as soon as is practicable after it is received. Council will brief the NSW Privacy Commissioner on the progress of an internal review and notify them of the outcome.

The NSW Privacy Commissioner may make submissions to Council in relation to the subject matter of the application for internal review. Council may, if it deems it appropriate, ask the NSW Privacy Commissioner to conduct the internal review.

### **6.3 What happens after an Internal Review?**

Pursuant to section 55 of the PPIP Act, if the applicant remains dissatisfied with the outcome of a review, an application may be made to the NSW Civil and Administrative Tribunal for a review of Council's conduct.

### **6.4 Alternative to lodging an application for internal review**

If a person does not want to lodge an application for internal review with Council, they may contact the Privacy Commissioner directly through the Information and Privacy Commission.

## **PART 7 - SPECIFIC EXEMPTIONS IN THE PPIP ACT AND HRIP ACT RELEVANT TO COUNCIL**

There are a number of exemptions from compliance with the PPIP Act and HRIP Act that apply directly to Council.

These relate to situations where:

- information is collected in connection with proceedings (whether commenced or not) before any Court or Tribunal
- information is collected for law enforcement purposes
- information is used for a purpose reasonably necessary for law enforcement purposes or to protect the public revenue
- Council is authorised or required by a subpoena or search warrant or other statutory instrument
- Council is investigating a complaint that may be referred or made to an investigative agency
- Council is permitted by a law or statutory instrument not to comply
- compliance would prejudice the interests of the individual to whom the information relates
- the individual to whom the information relates has given express consent to Council not to comply
- disclosure is permitted under the Privacy Code of Practice for Local Government.

## **PART 8 - OTHER INFORMATION**

### **Campbelltown City Council**

Privacy Contact Officer  
Manager, Governance and Risk  
Phone: (02) 4645 4000  
Fax: (02) 4645 4387  
Email: [council@campbelltown.nsw.gov.au](mailto:council@campbelltown.nsw.gov.au)

### **Information & Privacy Commission**

GPO Box 7011  
SYDNEY NSW 2001  
Phone: 1800 472 679  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

**NSW Civil and Administrative Tribunal (NCAT)**

Address: 86 - 90 Goulburn St

Sydney NSW 2000

Phone: 1300 006 228

**END OF POLICY STATEMENT**