



ONLINE PRIVACY FOR COUNCILS

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The Tasmanian Government is currently developing privacy legislation that will cover both State and Local Government.

Councils will be required to comply with the Tasmanian Privacy legislation once the legislation has been adopted.

Originally it was anticipated that the legislation would go to the Spring session of Parliament in 2003, however a number of issues have arisen that will delay this process beyond the stated timeframe.

While this may mean that Councils have some time to review processes, customers may have an expectation that their privacy will be safeguarded and it is good business practice to ensure that policies and processes are in place to protect personal information.

Tools

The LOGONS project has developed some tools that will assist Councils to maintain good online privacy practice.

The tools are based on the National Privacy Principles in the *Privacy Amendment (Private Sector) Act 2000*. See the National Privacy Principles extracted from the Privacy amendment (Private Sector) Act 2000 <http://www.privacy.gov.au/publications/npps01.html>.

These tools will need to be reviewed once Tasmanian privacy legislation has been enacted.

The tools provided are:

- Guidelines for developing an online privacy policy
- Sample online privacy policy
- Website privacy checklist
- Guideline for collection of personal information
- Legal information

LGAT will work with the State Government Department of Premier and Cabinet (DPAC) to run seminars on the proposed legislation in 2003/2004. LOGONS has also developed some tools that will assist Councils once the legislation has been enacted.

The tools are:

- Council Privacy Management Plan
- Council Privacy Policy

These tools will be made available to Councils once the legislation has been passed.

Seminars

LGAT will also run seminars through the regular seminar program that will provide an overview of information management issues that Councils should consider in relation to the State Government privacy legislation.

GUIDELINES FOR THE DEVELOPMENT OF AN ONLINE PRIVACY POLICY FOR A COUNCIL WEBSITE

The following guidelines are based on the National Privacy Principles in the Privacy amendment (Private Sector) Act 2000, as there is currently no Tasmanian Privacy legislation.

Whilst there is no legal requirement for Tasmanian Councils to implement a policy, Councils may wish to review their privacy processes as customers may have an expectation that their privacy will be safeguarded. This requirement may become increasingly important as Councils and CouncilConnect move into online transactions.

Councils can either develop their own online privacy policy using these guidelines, or use or adapt the sample guideline provided.

Online privacy policies need to be tailored to each websites particular needs. The guidelines are based on generic statements and examples are provided.

Councils will need to consider user expectations, any existing privacy policies that should be taken into account as well as any particular sensitivities regarding the type of personal information collected and the means by which it is transmitted.

Councils will need to work through the Principles and to determine what their approach to each principle will be.

The privacy policy should start with a positive statement of commitment, be clearly written and use easily understood language.

Principle 1 - Collection

Personal information should only be collected if it is necessary, it must be collected in a fair and legal manner and the users must be told what information is being collected and what will be done with it.

Where possible, personal information should be collected from the individual.

Profiling information such as cookies or click stream data as well as tracking information that may be used on the site should be explained even if they are non-identifying. The benefits of having these technologies operating should be explained as well as any affect to the functionality of the system if the user chooses to disable them.

The following questions should be asked.

- What personal information is collected? (email addresses, postal addresses, electronic forms)
- What is the purpose of the collection? (to provide a service, to provide feedback for a service request, to distribute information)
- Who is the personal information collected by or for? (internal use, a State Government Agency?)
- Is any personal; information not collected directly from the individual?
- Does the site use cookies or click stream data? (this should be explained even is the use if non-identifying).

Principle 2 – Use and Disclosure

Personal information must only be used or disclosed in ways that are consistent with the individual's expectations or are required in the public interest or necessary under law.

The following questions should be asked:

- How will the personal information be used?
- What will it be used for?
- Who will or may the information be disclosed to? (State Government Department, marketing company?)
- What if any are the legal requirements? (keeping a register mandated under the Dog Control Act 2000)
- If public documents are published on the site, would individuals reasonably expect their names to be included? (documents identifying staff names and positions)

Principle 3 – Data Quality

Reasonable steps must be taken to ensure personal information is accurate, complete and up-to-date.

The following questions should be asked:

- What procedures are in place to ensure that the data is of good quality

Principle 4 – Data Security

Reasonable steps should be taken to ensure that personal information is held securely and should be destroyed or de-identified when no longer needed.

The following questions should be asked:

- Are users provided with practical information about the risks of sending personal details over the Internet?
- Are users provided with other means to provide the information? (by fax, post, telephone)
- Are users informed about the retention policies of personal information?
- If encryption is used, are users informed about the type of encryption and the level of security it provides?

Principle 5 - Openness

This principle relates to making personal information policies and procedures available to users of the website.

The following procedures should be in place:

- The name, physical location and a contact number for the department or position responsible for the site as well as the website URL and/or email address, should be provided.
- The privacy policy should be prominently displayed and easily accessible and/or downloadable. It is usual for the link to the privacy policy to appear on the homepage. If personal information is collected throughout the website, there should be a link to the privacy policy at each point personal information is collected. The privacy “button” is usually located with the “legals” button (disclaimers, copyright notice etc).
- Contact details should be provided so users have somewhere to direct further enquiries relating to information privacy.

Principle 6 – Access and Correction

This principle states that an organisation must provide access to personal information and consideration should be given to allowing users to change or amend their own personal information within routine transactions.

The following questions should be asked:

- Are individuals provided with information about how to access and change their personal information?

Principle 7 – Unique Identifiers

This principle states that unique identifiers should only be assigned where necessary and should not be shared or used for other identification purposes. This is to prevent the creation of a government-wide identifier that could be used to cross-match personal information collected through a range of unrelated agencies.

The following questions should be asked:

- Are unique identifiers assigned to individuals disclosed to any other organisation?

Principle 8 – Anonymity

Wherever practical and legal to do so, users should be given the opportunity of not identifying themselves when entering transactions.

If possible the policy should include anonymous browsing for users who are not required to disclose personal information.

Principle 9 – Transfer of Information

This principle is designed to protect the privacy of personal information if it is sent to a third party outside Tasmania.

The following questions should be asked:

- Is any personal information transferred outside Tasmania?
- Is personal information transferred without the consent of the user?

Principle 10 – Sensitive Information

The collection of sensitive personal information should be limited to that which is necessary. Sensitive information means:

- a) *Information or an opinion of a personal nature about an individual's –*
 - I. *Racial or ethnic origin; or*
 - II. *Political opinions; or*
 - III. *Membership of a political association; or*
 - IV. *Religious beliefs or affiliations; or*
 - V. *Philosophical beliefs; or*
 - VI. *Membership of a professional or trade association; or*
 - VII. *Membership of a trade union; or*
 - VIII. *Sexual preferences or practices; or*

*IX. Criminal record; and
b) Health information of an individual*

In a global information economy it is much easier for sensitive personal information to be disseminated in ways that may be contrary to the interests of the individual.

The following questions should be asked:

- Is any sensitive personal information collected?
- Does this ever occur without the express consent of the individual concerned? (e.g. in order to be treated in a culturally sensitive manner, an individual may identify his or her ethnic origin or religious affiliation).
- Is sensitive information subject to the most stringent protection?

SAMPLE DISCLAIMER AND ONLINE PRIVACY POLICY

This policy can be used by Councils as their website Privacy Policy. Councils can use the guidelines to change or adapt the policy for their own needs.

A Privacy disclaimer that Councils can place on their web page is also provided and can link to the larger policy. The disclaimer should be located as part of the Legals area on the website.

Privacy

We are committed to protecting your privacy and managing your personal information in a secure environment.

We will only collect necessary personal information from you directly and with your express consent.

When you browse our website, our system automatically makes a record of your visit for statistical purposes. No attempt will be made to identify users except in the unlikely event where it is necessary for legal purposes.

We will only record your email address if you send us a message and it will only be used for the purpose for which you provided it. We will not disclose your email address to other persons or organisations without your consent.

For more information see <Council X> Privacy Policy.

LEGALS

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Linked Sites

This website may contain links to other websites ("linked websites"). Those links are provided for convenience only and may not remain current or be maintained.

We are not responsible for the content or privacy practices associated with linked websites.

Our links with linked websites should not be construed as an endorsement, approval or recommendation by us of the owners or operators of those linked websites, or of any information, graphics, materials, products or services referred to or contained on those linked websites, unless and to the extent stipulated to the contrary.

Security of Information

Whilst we strive to protect data transmitted over the Internet, we do not warrant and cannot ensure the security of any information that you transmit to us. Accordingly, any information that you transmit to us is transmitted at your own risk. For more information on how we manage security see the Privacy Policy. ([Link](#))

Changes to Material

The <Council> reserves the right to alter, amend, vary or otherwise change the Material at any time and without notice to you.

Variation of Terms

We may alter these terms of use at our discretion without notice to you.¹

¹ This information has been made available by the Local Government Association of South Australia

<Council name> Online Privacy Policy

In order to provide you with services we need to collect and use information about you.

This page explains how <Council name> Council collects and uses any information you give to us and the ways in which we protect your privacy.

We are committed to protecting your privacy and managing your personal information in a secure environment to ensure that personal information is protected and to specify guidelines for the collection, use and disclosure of that personal information.

Collection of your personal information including sensitive information

We will only collect necessary personal information from you directly and with your express consent. We will clearly indicate what information is necessary to access <Council name> Council's products and services including transactions. We may offer the opportunity for you to provide further information so that we can provide you with improved services; however, provision of this information is at your discretion (except where it is a legal requirement).

We will not ask for or collect any sensitive information about you such as religion, marital status, health information or gender unless it is necessary to meet legal, public interest or statistical requirements related to and required by the transaction you have requested. Provision of this information is at your discretion except where it is a legal requirement and you will be notified if this is the case.

<Council name> Council may automatically record other information as well. This information is used to improve the performance of <Council name> Council website and to provide you with better services.

When you visit this site our internet Service Provider makes a record of your visit and specifically logs the following information for statistical purposes – *(the users server address, the users top level domain name (eg.gov.au, etc.), the date and time of visit to the site, the pages accessed and documents downloaded, the previous site visited and the type of browser used)*. Any data collected will not be used to identify users unless there is a legal obligation to do so.

We do not record your email address unless you choose to send us a message. It will only be used for the purpose for which you have provided it and will not be disclosed without your consent.

We also track the pattern of visitor usage to <Council name> Council website using a facility called a cookie. Cookies are small data files that we send to your computer so we can remember (*your user ID, your password for access to our site, how many times you visited us before, the way you have chosen to view our site on earlier occasions*).

Cookies can make using <Council name> Council website easier for you by storing information about your preferences on a particular website. The use of cookies is an industry standard and most major websites use them. Most Internet browsers are pre-set to accept cookies but if you would prefer not to receive any cookies, you can configure your browser to refuse them, or to give you the option to receive them or not each time.

(If you do not use cookies this should be mentioned)

How we use or disclose your personal information

We will keep you informed of the personal information we hold. We will only use your personal information for the purpose for which you gave it to us and we will not pass your information on to third parties unless

- You have given us your consent to do so; or
- we are required by law to do so, or
- there are reasonable grounds to believe that disclosure is necessary to prevent a threat to life or health: or
- the person or organisation is an agent or contractor with ***I who will be required to maintain the same or similar privacy principles as specified in the privacy legislation.

Security and quality of the information you send

We will take all reasonable steps to ensure the data quality and security of your personal information and undertake to remove it from our system when it is no longer required (*except when archiving is required*).

(Outline security measures used e.g. encryption, technology to secure credit card transactions etc).

You do not have to provide us with personal information to use this site however you do need to register to use (X transaction, discussion forums etc)

You are responsible for maintaining the secrecy of user name and passwords and any account information. Please be responsible and careful in using this information.

Unfortunately no data transmission over the Internet can be guaranteed to be 100% secure, as with other channels of communication, fraud is always a possibility. While we take all reasonable steps to protect your personal information from misuse, loss and unauthorised access, we cannot guarantee the security of any information you transmit to us or receive from our online products or services.

If you have concerns in this regard, <Council name> Council has other ways of obtaining and providing information. Normal mail, telephone or fax facilities are available (*provide link to phone and fax number and mail address*).

How to access and correct your information

If you wish to access or make changes to the personal information held by us please contact us (*provide details of how to contact*).

There may be circumstances where it is not reasonable to provide you with access to the personal information we hold about you. These circumstances may include where we believe that providing access would be unlawful; or may pose a serious threat to life or health of an individual or to public safety; or would reveal pending legal proceedings or prejudice an investigation in to unlawful activity.

If we do not allow you to access details of your personal information you can request access in accordance with the Freedom of Information Act. (*provide details of how to do this*).

Anonymity

You do not have to disclose personal information to browse this site. Wherever it is legal and practical to do so transactions may be carried out without you having to identify yourself.

Other privacy information

<Council name> Council site contains links to other websites. This privacy policy only applies to our site, so you should read the privacy policy of any site that collects personal information.

Please be aware that if you post personal information on public sites (chat rooms) you may receive unsolicited messages.

You can obtain more information about privacy by referring to the Australian Privacy Commissioners Website www.privacy.gov.au

How to contact us

If you have an questions or concerns or if you wish to contact us about your privacy, please contact <Council name> Council (*address, postal address, email telephone, fax*)

ONLINE PRIVACY CHECKLIST

The following checklist has been developed so Councils can use it to review their websites in order to adopt best online privacy practice. The checklist can be used in conjunction with the Council Privacy Policy guidelines to assist in developing a Council online privacy policy by identifying those areas that need to go into the policy.

General

Does the web site have a privacy statement? Y N

Is the statement prominently displayed and downloadable with links available on most pages? Y N

1 – Collection

Does the site collect personal information? Y N

If Y, what personal information is collected

- | | | |
|-------------------------|---|---|
| • E-mail address | Y | N |
| • Name details | Y | N |
| • Address (postal/home) | Y | N |
| • Other | Y | N |

Does the site have a statement at each point where personal information is collected which

- | | | |
|--|---|---|
| • explains what personal information is gathered | Y | N |
| • advises users if the collection is via another party | Y | N |
| • explains the purpose of the collection | Y | N |
| • identifies any legal authority for collection | Y | N |

Does the site provide forms online Y N

If Y do the forms contain or link to a privacy statement on Collection? Y N

2 - Use and disclosure

Does the site have a statement at each point where Personal information is collected which

- | | | |
|---|---|---|
| • states how the information will be used | Y | N |
| • identifies disclosures | Y | N |

If the site contains personal details of individuals including staff details

- | | | |
|---|---|---|
| • are the individuals aware that their personal information has been published? | Y | N |
| • would the individuals reasonably expect their information to be published? | Y | N |

3 – Data Quality

Are procedures in place to ensure data quality (eg mandatory fields)	Y	N
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4 – Data Security

Does the privacy statement inform users of the risks in sending personal data over the Internet?	Y	N
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Does the site provide online payments or purchasing?	Y	N
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If Y, does the site provide secure facilities for the transmission of payment or purchasing?	Y	N
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Does the site provide information about measures used		
• to hold data securely	Y	N
• to identify disposal procedures	Y	N

5 – Openness

Does the privacy statement contain information about Web site identity (name/location/URL/email address)?	Y	N
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Does the privacy statement contain contact details	Y	N
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6– Access and Correction

Does the site provide information about access and correction rights?	Y	N
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7 – Unique Identifiers

If unique identifiers are used does the site		
• state what they are	Y	N
• state why they are used	Y	N
• state if disclosed and to whom	Y	N
Does the site include an anonymous browsers policy?	Y	N

8 – Anonymity

Does the site explain the use of cookies if used?	Y	N
Does the site explain what click stream data is collected if any?	Y	N

9 – Transfer of information

If personal data is transferred outside Tasmania does the site		
• explain why and to whom	Y	N
• provide for individual consent	Y	N

10 – Sensitive Information

Does the site collect sensitive data?	Y	N
If Y does the site identify the purpose and use of the collection?	Y	N

WHAT IS DATA QUALITY?

The National Privacy Principle 3 Data Quality states that information collected should be accurate, complete, relevant and up to date.

- Data quality is affected by factors such as whether the information is accurately recorded at the time of collection and whether the information collected is complete and accurately transcribed. Personal names can be recorded in many forms including using middle names or initials and an individual may be legitimately known by different names (for example using a maiden name at work and a married name elsewhere). Similarly different ways of recording a single address can cause difficulties.
- Data quality can be improved by introducing basic standards for recording common items of information.
- Data quality can also be improved through appropriate data management processes including the reasons for which data is collected, the length of time for which data should be kept, the allocation of responsibilities for the upkeep of the information, access controls and restrictions on the use of the data, and the means for eventual disposal. These issues are considered as part of Electronic Information Management.

Councils need to ensure standards and procedures are in place each time personal information is gathered in order to ensure data quality.

The following document provides a guideline for the collection of personal information within Councils.

COLLECTION OF PERSONAL INFORMATION GUIDELINE FOR COLLECTION

There is currently no Tasmanian privacy legislation however it is good practice if a Council collects personal information from an individual, to take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- (a) the fact that the information is being collected,
- (b) the purposes for which the information is being collected,
- (c) the intended recipients of the information,
- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- (e) the existence of any right of access to, and correction of, the information,
- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.

Council Policy

Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

Council will inform persons if the information is required by law or voluntarily given. Council will also inform individuals which department or section within Council holds their personal information, and of the right to access and correct that information. Council will adapt the pre-collection Privacy Notification form as appropriate (See Appendix 1).

The following are examples of application procedures where a Privacy Notification Form may be used:

- Lodging Development Applications;
- Lodging objections to Development Applications;
- Lodging applications for approval under the LGA;
- Any stamps or printed slips that contain the appropriate wording for notification; and
- When collecting an impounded item.

In relation to the Privacy Notification Form that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections. Anonymous objections may

be given less weight (or no weight) in the overall consideration of the Application.

Post – Collection

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, newsletter, or otherwise by letter. A common example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property is transferred from one owner to the next. Appendix 2 contains a sample Privacy Notification Form that could be used for post-collection.

External and related bodies

Each of the following should comply with the collection of personal information guidelines:-

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Where any of the above collects personal information on behalf of Council, or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with these guidelines as to the intended recipients and other matters listed.

PRIVACY NOTIFICATION FORM – (PRE-COLLECTION)

(Addressed to the person from whom information is about to be collected or has been collected.)

Council collects personal information from you to assist in it's business activities.

The intended recipients of the personal information are:

- officers within ***** Council;
- data service providers engaged by ***** Council from time to time;
- any other agent of ***** Council; and
- (*any other*).

The supply of the information by you is / is not voluntary. If you cannot provide or do not wish to provide the information sought, ***** Council may/will be unable to process your application.

Council is collecting this personal information from you in order to.....

.....
.....

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application.

Council* is to be regarded as the agency that holds the information.

Enquires concerning this matter can be addressed to

.....
.....

Signed.....

Dated.....

*Please state who holds or controls the information if not Council

PRIVACY NOTIFICATION FORM

(Addressed to the person from whom information has been collected.)

Council collects personal information from you to assist in its business activities.

The intended recipients of the personal information are:

- officers within ***** Council;
 - data service providers engaged by ***** Council from time to time;
 - any other agent of ***** Council; and
 -
-(any other).

The supply of the information by you *is / is not* voluntary. If you cannot provide or do not wish to provide the information sought, ***** Council may

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Council has collected this personal information from you in order to

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.....
.....

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application.

Council* is to be regarded as the agency that holds the information.

Enquires concerning this matter can be addressed to

.....
.....

Signed.....

Dated.....

*Please state who holds or controls the information if not Council