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Relevant Policies:	
Related Procedures:	
Compliance Standard:	

Policy Statement

The District Council of Robe considers that the responsible handling of personal information is a key aspect of democratic governance and is strongly committed to protecting an individual's right to privacy.

Council will comply with the Information Privacy Principles under the Privacy Act 1988, however, the South Australian Government has not implemented a statutory scheme that applies privacy legislation (including the National Privacy Principles) to Local Government. This policy is, therefore, an informal measure which promotes "best practice" in the view of the Council. The policy has no legal force.

Interpretation/Definitions

The following definitions will apply throughout this policy:

"the council" means the District Council of Robe;

"Access" means providing to an individual, information about himself or herself that is held by Council. This may include allowing that individual to inspect personal information or to obtain a copy;

"Collection" means gathering, acquiring or obtaining information from any source and by any means, including information that Council has come across by accident or has not asked for;

"Consent" means voluntary agreement to some act, practice or purpose;

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

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural living person whose identity is apparent, or can reasonably be ascertained, from the information or opinion, including photograph or other pictorial representation of a person;

But does **not** include information that is:

- in generally available publications

- in material kept in public records and archives such as the Commonwealth or State archives; or
- in anything kept in a library, art gallery or museum for the purposes of reference, study or exhibition.

“Privacy Act” means the Privacy Act 1988;

“Sensitive Information” means information or an opinion about an individual’s

- racial or ethnic origin;
- political opinions;
- membership of political association, a professional association or a trade union;
- religious beliefs or affirmations;
- philosophical beliefs;
- sexual preferences;
- criminal record; or
- health.

“Health” means information or opinion about an individual’s

- Physical, mental or psychological health;
- Disability;
- Expressed wishes about the future provision of health services to him or her; or
- Health service provided, or to be provided, that is also personal information; or
- Other personal information collected to provide, or in providing, a health service to an individual;

“Record-subject” means the individual whose personal information has been collected;

“Use” means the handling of personal information within a Council including the inclusion of information in a publication.

Introduction

The Council is committed to a culture that protects privacy and will endeavour to protect the personal information it collects, stores, discloses and uses. This policy outlines how the Council will adopt a “best practice” approach to the management of personal information.

The Privacy Act 1988 sets out the principles which must be followed by Commonwealth Government agencies and many private organisations in relation to the collection, maintenance and use of personal information. The provisions of the Privacy Act 1988 do not apply to this Council or any other council. However, in collecting, using, storing and disclosing personal information, the Council acknowledges that the National Privacy Principles contained within the Privacy Act 1988 set an appropriate standard for privacy protection and this policy is intended to achieve “best practice” consistency within those standards. The National Privacy Principles are set out in Schedule A of this policy.

Collection and Use of Personal Information

The District Council of Robe believes that the responsible handling of personal information, including health information, is a key aspect of democratic governance, and is strongly committed to protecting an individual’s right to privacy.

The Council is committed to ensuring that information will not be collected by unlawful or unfair means, nor will it be collected unnecessarily.

All personal information collected by the Council is to be used only for the purpose of conducting business in accordance with the Local Government Act 1999 (and other relevant Acts under which Council is charged with any responsibility) and in the provision of Council services to the ratepayers and residents of the township of Robe.

The type of personal information that is collected and held will depend on the services provided to ratepayers and residents, but may include:

- Telephone numbers;
- Name and address i.e. both residential and postal addresses and e-mail addresses;
- Age and /or date of birth;
- Property ownership and /or Occupier details;
- Details of ratepayer's or resident's partner, spouse or marital status;
- Development Applications including plans of buildings;
- Dog Ownership
- Electoral Roll Details
- Pensioner / concession Information
- Payment History

Although development applications are not considered personal in nature, it is a breach of the Copyright Act 1968 for Council to reproduce such documents that would be normally covered by this legislation without the written approval of the owner of the Copyright documents.

All information will be collected in a fair and lawful manner and as required and permitted by Local Government legislation. The District Council of Robe is committed to ensuring that ratepayers and residents are aware of the purpose of the collection of the information and that they are also aware that the collection of such information is authorised or required by law.

Council will generally only disclose personal or health information for the purpose for which it was collected, or a purpose incidental to or connected with that purpose unless:

- the record-subject has expressly or impliedly consented to the use in writing;
- the agency using the information believes, on reasonable grounds, that the use is necessary to prevent or lessen a serious and imminent threat to the life or health of the record-subject or of some other person;
- the use is required by or under law; or
- the use for that other purpose is reasonably necessary for the enforcement of the criminal law or of a law imposing pecuniary penalty or for the protection of public revenue or for the protection of the interests of the government, statutory authority or statutory office-holder as an employer

Should Council wish to disclose personal or health information for a purpose other than for which it was collected, it will seek the consent of the individual where reasonably practicable.

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

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

- (a) any personal information provided by ratepayers and residents is free from errors and omissions, is not misleading or deceptive, has been given in good faith, and complies with all relevant laws; and
- (b) ratepayers and residents have the necessary authority to provide any personal information submitted to the Council by them.

The Council relies upon the integrity of the information provided to it. Council may obtain information concerning ratepayers or residents from a number of different sources, including, but not limited to, Centrelink, the State Electoral Office, Office of the Valuer General, S.A. Water, Telstra and from ratepayers and residents or other persons.

It is the responsibility of ratepayers and residents to provide Council with details of any changes to their personal information as soon as reasonably practicable following such a change.

In some instances the personal information held by the Council about ratepayers and residents may incorporate or summarise views, guidelines or recommendations of third parties. The Council will endeavour to assemble and record such personal information in good faith, but cannot guarantee that it will necessarily involve a considered review of the information.

While the Council will make every effort to ensure that its records of an individual's personal information are up to date and accurate, this may not always be the case.

The Council will only collect a ratepayer or resident's e-mail address to respond to their enquiry if they choose to contact Council via the internet or if they provide this information to Council voluntarily in order that contact via e-mail can be made at the individual's request.

Disclosure of Personal Information

The Council will not permit the provision of personal information it holds concerning ratepayers and residents to third parties, except in the following circumstances:

- Where the ratepayer and/ or resident has made a written request for personal information to be provided to a third party;
- Where the provision of personal information is for the purpose of distributing materials for the sole purpose of assisting Council (e.g. the provision of address data for use by a mailing service provider to post Rates Notices);
- Where the third party has been contracted by Council to provide advice or services for the sole purpose of assisting the Council to provide benefits to the ratepayers and /or residents e.g. State Electoral Office, Office of the Valuer General or Insurers;
- Where the Council is required by legislation to provide personal information to a third party (e.g. provision of personal information to the State Electoral Office) or to the public at large in accordance with the Local Government Act, 1999 or to an applicant under the Freedom of Information Act 1991 where the application is not otherwise exempt: and
- Where the ratepayer and /or resident has been advised by 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.

Before the Council will provide personal information to a third party service provider that is subject to the provisions of the Privacy Act 1988, that supplier will be required to provide a signed Privacy Undertaking to Council that it will comply with the Privacy Act 1988 and the National Privacy Principles in respect to the collection, use and handling of personal information supplied by the Council.

The Council may supply personal information about an individual to that individual as part of a standard communication or pursuant to a request made by the individual.

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

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

Maintenance and Storage of Personal Information

The Council will take reasonable steps to protect the personal information it holds from loss, unauthorised access, use, modification, disclosure and other misuse, and to maintain systems to ensure that all personal information collected is up to date, accurate and complete.

Policy for Rebate of Rates and Hardship Applications

Personal information obtained in relation to claims for rebate of rates and hardship applications will be used solely for the purposes of facilitating the claim to which the personal information relates, unless the record-subject has specifically given permission in writing for it to be used for other applications or to be provided to a third party.

Freedom of Information

Council may release personal information to others if requested in accordance with the Freedom of Information Act 1991. This act requires Council to consult with a person to obtain their opinion on release of the information. Persons have the right to request a review of a decision to release personal information prior to the information being released

Provision of Information Specific Cases

Information for the following purposes will be provided in accordance with the policy outlined in this section and within the broad principles of this policy.

Definition of "Interest In Land" is a person (or an agent acting on behalf of a person who has an interest in land) who is:

- The owner of a registered estate or interest in the land; or
- The occupier of the land; or
- A person who has entered or declared to the Council that he/she proposes to enter into contract to purchase the land; or
- A mortgagee or prospective mortgagee of the land; or
- A utility company who is providing service to a person who has an interest in the land; or
- An instrumentality of the Crown to which Council has entered into an agreement to provide information under Section 174 of the Local Government Act

Financial Information

Upon written application and accompanying payment of a fee set by Council in accordance with Council's Fees and Charges Policy under Section 187 of the Local Government Act shall provide to a person who has an interest in land (or an agent acting on behalf of a person who has an interest in land):

- The amount of any liability for rates or charges on the land imposed under the Local Government Act (including all rates and charges, fines and interest);
- Any amount received on account of rates or charges on the land held in credit for future liabilities

The applicant must:

- Apply in writing to the Chief Executive Officer;
- Identify the land to which the application relates; and
- State the nature of the applicants interest in the land.

Adjoining Property Owner Requests

Upon written application (form attached) from an adjacent land owner for the purposes of the *Fencing Act* Council shall release the name and postal address of the adjacent land owner.

Those seeking information of an adjoining land owner for other purposes the request will be referred to the Chief Executive Officer in the first instance, it is a general principle that Council will not provide personal information to adjoining land owners except for *Fences Act* purposes.

Assessment Records – Application Under Section 174 of the Local Government Act

A person may inspect the Assessment Record during normal business hours at the Council Office. Upon written application and accompanying payment of a fee set by Council in accordance with Council's Fees and Charges Policy from any person under Section 174 of the Local Government Act Council shall provide a copy of the record.

Council will provide information if it is satisfied that the relevant Act's are satisfied, within 5 working days of receipt of the request unless alternative timeframes are allowed by legislation.

Access to Council's Privacy Policy

The Council will make this Privacy Policy available to ratepayers and residents when a request for personal information is made. Ratepayers and residents should not provide any personal information without first reading this Privacy Policy. This Privacy Policy will be available from Council's web site www.council.robe.sa.gov.au or from the Council Office.

While the District Council of Robe will attempt to make the information on Council's web site as accurate as possible, the information provided, including this Privacy Policy, is provided in good faith without any express or implied warranty. There is no guarantee given by the Council as to the accuracy or currency of any individual item on the web site.

Council cannot guarantee that access to the web site will be available at all times or that all areas of the web site (including the area hosting the Privacy Policy) will be available at all times.

Resident/Ratepayer Access to their Personal Information

Residents/ratepayers wishing to access the personal information that the District Council of Robe holds in relation to them can do so by contacting the Customer Services Staff at the Council office. These requests will be dealt with as soon as is reasonably practicable, having regard to the nature of the information requested. The person requesting the information will need to satisfy Customer Service Staff as to his or her identity and may also be requested to complete an "Information Request – General" application form and pay a fee.

Non-Compliance with this Policy

Failure to comply with the terms of this policy may result in disciplinary procedures for the staff member(s) / Elected Member(s) concerned.

FURTHER INFORMATION

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.robe.sa.gov.au

Royal Circus, Robe SA 5276

Copies will be provided to interested parties upon request. Email council@robe.sa.gov.au

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

POLICY REVIEW

This policy may be amended at any time and must be reviewed at least every four years since its adoption (or latest amendment).

Schedule A

National Privacy Principles

Collection

1. An organisation must not collect personal information unless the information is necessary for one or more of its functions or activities.
2. An organisation must collect personal information only by lawful and fair means and not in an unreasonably intrusive way.
3. At or before the time (or, if that is not practicable, as soon as practicable after) an organisation collects personal information about an individual from the individual, the organisation must take reasonable steps to ensure that the individual is aware of:
 - (a) the identity of the organisation and how to contact it; and
 - (b) the fact that he or she is able to gain access to the information; and
 - (c) the purposes for which the information is collected; and
 - (d) the organisations (or the types of organisations) to which the organisation usually discloses information of that kind; and
 - (e) any law that requires the particular information to be collected; and
 - (f) the main consequences (if any) for the individual if all or part of the information is not provided.
4. If it is reasonable and practicable to do so, an organisation must collect personal information about an individual only from that individual.
5. If an organisation collects personal information about an individual from someone else, it must take reasonable steps to ensure that the individual is or has been made aware of the matters listed in sub clause 1.3 except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.

Use and Disclosure

1. An organisation must not use or disclose personal information about an individual for a purpose (the **secondary purpose**) other than the primary purpose of collection unless:
 - (a) both of the following apply:
 - (i) the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection;
 - (ii) the individual would reasonably expect the organisation to use or disclose the information for the secondary purpose; or
 - (b) the individual has consented to the use or disclosure; or
 - (c) if the information is not sensitive information and the use of the information is for the secondary purpose of direct marketing:
 - (i) it is impracticable for the organisation to seek the individual's consent before that particular use; and
 - (ii) the organisation will not charge the individual for giving effect to a request by the individual to the organisation not to receive direct marketing communications; and
 - (iii) the individual has not made a request to the organisation not to receive direct marketing communications; and
 - (iv) in each direct marketing communication with the individual, the organisation draws to the individual's attention, or prominently displays a notice, that he or she may express a wish not to receive any further direct marketing communications; and
 - (v) each written direct marketing communication by the organisation with the individual (up to and including the communication that involves the use) sets

- out the organisation's business address and telephone number and, if the communication with the individual is made by fax, telex or other electronic means, a number or address at which the organisation can be directly contacted electronically; or
- (d) if the information is health information and the use or disclosure is necessary for research, or the compilation or analysis of statistics, relevant to public health or public safety:
 - (i) it is impracticable for the organisation to seek the individual's consent before the use or disclosure; and
 - (ii) the use or disclosure is conducted in accordance with guidelines approved by the Commissioner under section 95A for the purposes of this subparagraph; and
 - (iii) in the case of disclosure—the organisation reasonably believes that the recipient of the health information will not disclose the health information, or personal information derived from the health information; or
- (e) the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent:
 - (i) a serious and imminent threat to an individual's life, health or safety; or
 - (ii) a serious threat to public health or public safety; or
- (f) the organisation has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or
- (g) the use or disclosure is required or authorised by or under law; or
- (h) the organisation reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct;
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal or implementation of the orders of a court or tribunal.

Note 1: It is not intended to deter organisations from lawfully co-operating with agencies performing law enforcement functions in the performance of their functions.

Note 2: Sub clause 2.1 does not override any existing legal obligations not to disclose personal information. Nothing in sub clause 2.1 requires an organisation to disclose personal information; an organisation is always entitled not to disclose personal information in the absence of a legal obligation to disclose it.

Note 3: An organisation is also subject to the requirements of National Privacy Principle 9 if it transfers personal information to a person in a foreign country.

2. If an organisation uses or discloses personal information under paragraph 2.1(h), it must make a written note of the use or disclosure.
3. Sub clause 2.1 operates in relation to personal information that an organisation that is a body corporate has collected from a related body corporate as if the organisation's primary purpose of collection of the information were the primary purpose for which the related body corporate collected the information.
4. Despite sub clause 2.1, an organisation that provides a health service to an individual may disclose health information about the individual to a person who is responsible for the individual if:
 - (a) the individual:
 - (i) is physically or legally incapable of giving consent to the disclosure; or

- (ii) physically cannot communicate consent to the disclosure; and
 - (b) a natural person (the **carer**) providing the health service for the organisation is satisfied that either:
 - (i) the disclosure is necessary to provide appropriate care or treatment of the individual; or
 - (ii) the disclosure is made for compassionate reasons; and
 - (c) the disclosure is not contrary to any wish:
 - (i) expressed by the individual before the individual became unable to give or communicate consent; and
 - (ii) of which the carer is aware, or of which the carer could reasonably be expected to be aware; and
 - (c) the disclosure is limited to the extent reasonable and necessary for a purpose mentioned in paragraph (b).
5. For the purposes of subclause 2.4, a person is **responsible** for an individual if the person is:
- (a) a parent of the individual; or
 - (b) a child or sibling of the individual and at least 18 years old; or
 - (c) a spouse or de facto spouse of the individual; or
 - (d) a relative of the individual, at least 18 years old and a member of the individual's household; or
 - (e) a guardian of the individual; or
 - (f) exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health; or
 - (g) a person who has an intimate personal relationship with the individual; or
 - (h) a person nominated by the individual to be contacted in case of emergency.
6. In sub clause 2.5:
- child** of an individual includes an adopted child, a step-child and a foster-child, of the individual.
- parent** of an individual includes a step-parent, adoptive parent and a foster-parent, of the individual.
- relative** of an individual means a grandparent, grandchild, uncle, aunt, nephew or niece, of the individual.
- sibling** of an individual includes a half-brother, half-sister, adoptive brother, adoptive sister, step-brother, step-sister, foster-brother and foster-sister, of the individual.

Data Quality

1. An organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.

Data Security

1. An organisation must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.
2. An organisation must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under National Privacy Principle 2.

Openness

1. An organisation must set out in a document clearly expressed policies on its management of personal information. The organisation must make the document available to anyone who asks for it.

2. On request by a person, an organisation must take reasonable steps to let the person know, generally, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

Access and Correction

1. If an organisation holds personal information about an individual, it must provide the individual with access to the information on request by the individual, except to the extent that:
 - (a) in the case of personal information other than health information—providing access would pose a serious and imminent threat to the life or health of any individual; or
 - (b) in the case of health information—providing access would pose a serious threat to the life or health of any individual; or
 - (c) providing access would have an unreasonable impact upon the privacy of other individuals; or
 - (d) the request for access is frivolous or vexatious; or
 - (e) the information relates to existing or anticipated legal proceedings between the organisation and the individual, and the information would not be accessible by the process of discovery in those proceedings; or
 - (f) providing access would reveal the intentions of the organisation in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
 - (g) providing access would be unlawful; or
 - (h) denying access is required or authorised by or under law; or
 - (i) providing access would be likely to prejudice an investigation of possible unlawful activity; or
 - (j) providing access would be likely to prejudice:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; or
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - (iii) the protection of the public revenue; or
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal or implementation of its orders by or on behalf of an enforcement body; or
 - (k) an enforcement body performing a lawful security function asks the organisation not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.
2. However, where providing access would reveal evaluative information generated within the organisation in connection with a commercially sensitive decision-making process, the organisation may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.

Note: An organisation breaches sub clause 6.1 if it relies on sub clause 6.2 to give an individual an explanation for a commercially sensitive decision in circumstances where sub clause 6.2 does not apply.
3. If the organisation is not required to provide the individual with access to the information because of one or more of paragraphs 6.1(a) to (k) (inclusive), the organisation must, if reasonable, consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.
4. If an organisation charges for providing access to personal information, those charges:
 - (a) must not be excessive; and

- (b) must not apply to lodging a request for access.
- 5. If an organisation holds personal information about an individual and the individual is able to establish that the information is not accurate, complete and up-to-date, the organisation must take reasonable steps to correct the information so that it is accurate, complete and up-to-date.
- 6. If the individual and the organisation disagree about whether the information is accurate, complete and up-to-date, and the individual asks the organisation to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, the organisation must take reasonable steps to do so.
- 7. An organisation must provide reasons for denial of access or a refusal to correct personal information.

Identifiers

- 1. An organisation must not adopt as its own identifier of an individual an identifier of the individual that has been assigned by:
 - (a) an agency; or
 - (b) an agent of an agency acting in its capacity as agent; or
 - (c) a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract.

However, sub clause 7.1 does not apply to the adoption by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Note: There are prerequisites that must be satisfied before those matters are prescribed: see subsection 100(2).

- 2. An organisation must not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider mentioned in sub clause 7.1, unless:
 - (a) the use or disclosure is necessary for the organisation to fulfil its obligations to the agency; or
 - (b) one or more of paragraphs 2.1(e) to 2.1(h) (inclusive) apply to the use or disclosure; or
 - (c) the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Note: There are prerequisites that must be satisfied before the matters mentioned in paragraph (c) are prescribed: see subsection 100(2).

- 3. In this clause:
identifier includes a number assigned by an organisation to an individual to identify uniquely the individual for the purposes of the organisation's operations. However, an individual's name or ABN (as defined in the *A New Tax System (Australian Business Number Act 1999)*) is not an **identifier**.

Anonymity

Wherever it is lawful and practicable, individuals must have the option of not identifying themselves when entering transactions with an organisation.

Transborder Data Flows

An organisation in Australia or an external Territory may transfer personal information about an individual to someone (other than the organisation or the individual) who is in a foreign country only if:

- (a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to the National Privacy Principles; or
- (b) the individual consents to the transfer; or

- (c) the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request; or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party; or
- (e) all of the following apply:
 - (i) the transfer is for the benefit of the individual;
 - (ii) it is impracticable to obtain the consent of the individual to that transfer;
 - (iii) if it were practicable to obtain such consent, the individual would be likely to give it; or
- (f) the organisation has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the National Privacy Principles.

Sensitive Information

1. An organisation must not collect sensitive information about an individual unless:
 - (a) the individual has consented; or
 - (b) the collection is required by law; or
 - (c) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:
 - (i) is physically or legally incapable of giving consent to the collection; or
 - (ii) physically cannot communicate consent to the collection; or
 - (d) if the information is collected in the course of the activities of a non-profit organisation—the following conditions are satisfied:
 - (i) the information relates solely to the members of the organisation or to individuals who have regular contact with it in connection with its activities;
 - (ii) at or before the time of collecting the information, the organisation undertakes to the individual whom the information concerns that the organisation will not disclose the information without the individual's consent; or
 - (e) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.
2. Despite sub clause 10.1, an organisation may collect health information about an individual if:
 - (a) the information is necessary to provide a health service to the individual; and
 - (b) the information is collected:
 - (i) as required by law (other than this Act); or
 - (ii) in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the organisation.
3. Despite sub clause 10.1, an organisation may collect health information about an individual if:
 - (a) the collection is necessary for any of the following purposes:
 - (i) research relevant to public health or public safety;
 - (ii) the compilation or analysis of statistics relevant to public health or public safety;
 - (iii) the management, funding or monitoring of a health service; and
 - (b) that purpose cannot be served by the collection of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained; and
 - (c) it is impracticable for the organisation to seek the individual's consent to the collection; and
 - (d) the information is collected:
 - (i) as required by law (other than this Act); or

- (ii) in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the organisation; or
 - (iii) in accordance with guidelines approved by the Commissioner under section 95A for the purposes of this subparagraph.
- 4. If an organisation collects health information about an individual in accordance with sub clause 10.3, the organisation must take reasonable steps to permanently de-identify the information before the organisation discloses it.
- 5. In this clause:
non-profit organisation means a non-profit organisation that has only racial, ethnic, political, religious, philosophical, professional, trade, or trade union aims.