

**CITY OF WANNEROO SUBMISSION
ON PRIVACY AND RESPONSIBLE INFORMATION SHARING TO
DEPARTMENT OF PREMIER AND CABINET**

[Discussion Paper and Other Information](#)

	Question	Comment	Additional information
1.	What issues should be considered when developing privacy and information sharing legislation for Western Australia?	<p>Definition of 'personal data'.</p> <p>Standards for:</p> <ul style="list-style-type: none"> - Collection of personal data - Storage of personal data - Use of personal data - Access to personal data - Correction/updating of personal data - 'Life'/retention/destruction of personal data <p>Transparency of personal data management processes.</p> <p>Redress and reporting in the event of a data breach.</p> <p>Consideration must be given to the ACCC's findings in respect of the Digital Platforms Inquiry June 2019 (ACCC Report) and the recommendations that the Privacy Act (Cth) needs reform in order to ensure that consumers are adequately informed, empowered and protected, as to how their</p>	<p>The City's Personal Information Privacy Policy aligns with the Australian Privacy Principles and it would be appropriate for the any Western Australian privacy regime to do so to ensure consistency.</p> <p>Under 'Use of data' needs to be established a 'fair use' protocol whereby data owners understand that a public sector body may use personal data to deliver services other than those for which the information was initially collected. The drafting the City used in its Personal Information Privacy Policy is "directly related secondary purposes which would be reasonably expected by the</p>

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		<p>data is being used and collected. This must be addressed in the State's privacy and information sharing legislation.</p>	<p>individual, or as permitted or required by law". This achieves the correct <u>balance</u> between the rights of the individual and the needs of the community and needs to be the underlying principle.</p>
2.	<p>What privacy principles should WA adopt for regulating the handling of personal information by the public sector? Are any of the existing Australian Privacy Principles, or principles in other Australian jurisdictions, unsuitable for WA?</p>	<p>The City position is that the responsible handling of personal information is a key aspect of the operation of government and is strongly committed to protecting an individual's right to privacy. Accordingly, the City adopted a Personal Information Privacy Policy on 4 June 2019 (CS05-06/19).</p> <p>This Policy ensures that all reasonable steps are taken so that the collection, use, disclosure and handling of all Personal Information by the City aligns with relevant Australian Privacy Principles.</p> <p>The City's adopted privacy principles are set out in our Personal Information Privacy Policy. They are consistent with but do not reproduce in full the Australian Privacy Principles as this has been contextualised for the City's purposes and operations.</p>	<p>In addition, the City Policy has been reviewed and now aligns with the Ombudsman of Western Australia's management guidelines of personal information.</p> <ul style="list-style-type: none"> - Guidelines for the Management of Personal Information. - Good practice principles for the management of personal information.

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		<p>The City does not consider any of the current Australian Privacy principles to be unsuitable.</p> <p>A key principle identified in the ACCC Report is that strong privacy and data protection laws build trust and empower consumers to make more informed choices about how their data is processed and shared.</p>	
3.	<p>What should the role of a Privacy Commissioner be, and how can this role best protect privacy and ensure public trust?</p>	<p>To be the oversight agency that ensures that public sector bodies and organisations comply with the WA privacy and information sharing legislation, not dissimilar to the Ombudsman role but in respect of privacy and data</p> <p>To provide independent advice to the community, government on how the different sectors collect, use and share information.</p> <p>Adopt a key objective that the Privacy Commissioner is responsible for ensuring that government bodies are kept up to date with best practice in data security and facilitate dialogue between government bodies and data security organisations.</p>	

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4.	How should breaches of privacy be managed, and what action should be taken in response to a breach?	<p>Breaches should be managed proportionally to the capability of the responsible body to have prevented or predicted the breach as follows:</p> <ul style="list-style-type: none"> - seriously, if the organisation or individual has through negligence created the opportunity for the breach; and - less serious if the breach has occurred in spite of robust and consistently applied data security standards. <p>Remedial actions should include implementation of controls to reduce likelihood of similar breaches in the future.</p>	<p>It is of paramount importance that the definition of a breach of needs to well-articulated to ensure there are clear guidelines as to what constitutes a breach and also clear defined defences where appropriate.</p>
5.	When should government agencies be allowed to share personal information? Are there any circumstance in which it would not be appropriate to do so?	<p>Once State-wide legislation creates a consistent set of data security and protection standards for all public sector bodies then information sharing should be encouraged where it directly supports improved service quality, consistency of information and efficiency of government agencies.</p> <p>WA's Open Data Policy provides for a broad definition of data sharing, in particular data sets through a central portal however this</p>	<p>There are many examples within government that would benefit from such data sharing. Rates Land Purchase Zoning Enquiry.</p> <p>The City receives approximately 30 of these each day whereby the information is provided via Landgate from Settlement agents with new rate payers</p>

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		<p>policy must ensure that speculative or indiscriminate data gathering, or data gathering against some unspecified possible future need, is discouraged.</p> <p>One circumstance where it may not be appropriate to share information without consent is where the information pertains to silent electors or those who specifically choose not to have their personal data shared.</p>	<p>information. The City uses this information to create a new Name and Address Record (NAR) for all new property owners in the City's district.</p>
6.	<p>What should the role of a Chief Data Officer be? How can this role best support the aims of Government and the interests of the public?</p>	<p>The Office of Digital Government must be clear as to its areas of responsibilities and the Chief Data Officer role sits within that Office. The Chief Data Officer should be the chief adviser on all data related matters including advising data owners of their rights in respect of personal data.</p> <p>Promote:</p> <ul style="list-style-type: none"> - best practice in data collection, indexing/classification, storage and management; - the principles to follow and apply by organisation to organisation data sharing; - education to organisations, data 	

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		<p>owners and the greater community in the value and proper handling of data</p> <p>Ensure that standards for open data within State and local government are integrated and aligned across the government sector, including with current legislation such as Freedom of Information Act, State Records Act and the Local Government Act.</p> <p>Develop standard frameworks, policy, procedures and templates for adoption by public sector bodies.</p>	
7.	<p>Should the WA Government facilitate sharing of information outside the WA public sector? What should be considered when making a decision to share outside the WA public sector?</p>	<p>There is value in sharing relevant data with appropriate third parties, provided that this is done in a transparent and proportionate manner.</p> <p>Clear accountability for the sharing of data needs to reside with the organisations sharing the data and each must comply with the requirements of legislation.</p>	<p>Sharing information with bodies that will or may use the data for commercial purposes, even if no formal breach occurs, will quickly undermine trust in the system.</p>
8.	<p>What criteria should be included as part of a risk management framework such as the Five Safes?</p>	<p>Managing risks associated with data handling should be an organisation's responsibility, not the responsibility of a single department or individual, especially considering that an</p>	

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		<p>organisation is full cognisant of the type of information they hold and how it is used.</p> <p>The Five Safes has the advantage of providing a centralised and consistent methodology for handling risk; the possible disadvantage is misalignment with an organisation's risk management framework.</p> <p>The purpose of the Freedom of Information Act is to provide access to information for transparency and accountability and it may be appropriate to include legislative requirements for compliance with the Five Safes principles in disclosing and sharing information.</p>	
9.	Under what circumstances would it be considered acceptable to share confidential information within the public sector?	Provided the data owner is aware at the point of data collection how it may be used and provides consent to that use then confidential information should be able to be shared in the interests of delivering services.	The underlying principle remains the same for 'confidential' and 'non-confidential' data (and note that these are terms also requiring clear definition) – if the data is validly required in order to deliver a service and is subject to appropriate protections then the degree of confidentiality of the data should not be an issue.

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			Or, to put it another way, the protections afforded to 'non-confidential' data should be exactly as stringent and effective as those applied to 'confidential' data.
10.	What should the WA Government be doing to support successful implementation of privacy and information sharing?	<p>A defined implementation plan of what organisations need to do to ensure adherence and acceptance.</p> <p>Possible amendments to the Local Government Act 1995 relating to "Access to Information", Sections 5.94, 5.96 and 5.96A, the confidentiality requirements under section 5.95 "Limits on right to inspect local government information" and section 29A and 29B of the Local Government (Administration) Regulations 1996.</p> <p>Given that this legislation is intended to give or limit public access to local government information, it may still need to be addressed to provide for information sharing across government departments.</p>	