



Office of the Information Commissioner
Queensland

Follow-up of Report No. 1 for 2021-22

**Audit of Sunshine Coast Regional Council's
implementation of recommendations**

**Compliance with Right to Information and Information
Privacy**

Report No. 2 to the Queensland Legislative Assembly for 2023-24

Acknowledgement of Country

The Office of the Information Commissioner acknowledges Aboriginal and Torres Strait Islander peoples as the First Australians and recognises their culture, history, diversity and their deep connection to the land, waters and seas of Queensland and the Torres Strait. We acknowledge the traditional custodians of the lands on which we operate and wish to pay our respects to their Elders past, present and emerging.



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ISBN: 978-0-6456316-3-0

November 2023

Mr Peter Russo MP
Chair
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Mr Russo

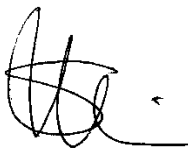
I am pleased to present 'Follow-up of Report No. 1 for 2021-22: Audit of Sunshine Coast Regional Council's implementation of recommendations, Compliance with Right to Information and Information Privacy'.

This report is prepared under section 131 of the *Right to Information Act 2009* (Qld).

The report outlines Sunshine Coast Regional Council's progress in implementing the recommendations I made in the 2021 audit.

In accordance with subsection 184(5) of the *Right to Information Act 2009* (Qld) and subsection 193(5) of the *Information Privacy Act 2009* (Qld), I request that you arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Stephanie Winson', with a stylized flourish at the end.

Stephanie Winson
Information Commissioner (Acting)



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Summary

This is a report on Sunshine Coast Regional Council's (SCRC) progress in implementing the recommendations we made under the *Right to Information Act 2009* (Qld) and the *Information Privacy Act 2009* (Qld).¹

The objective of our 2021 audit was to:

- determine whether SCRC is complying with specific prescribed requirements of the *Right to Information Act 2009* and the *Information Privacy Act 2009*
- identify areas of good practice; and
- make recommendations about improvement opportunities.

In 2021 we concluded that:

Sunshine Coast Regional Council has recognised that it needs to improve how it manages information. In 2020 it commissioned a review that identified pockets of excellence but also a general lack of maturity in information management and governance. This is a good first step in assessing its practices and compliance with legislative requirements.

We also noted that:

*As the council embarks on an ambitious overhaul of its information and records management practices, it has a great opportunity to incorporate the push model and privacy by design into its new framework. It also needs to ensure that new or revised policies support practices that comply with all aspects of the *Right to Information Act 2009* and the *Information Privacy Act 2009*.*

Results and conclusions of the follow-up audit

We made 22 recommendations to improve the council's compliance with the *Right to Information Act 2009* and the *Information Privacy Act 2009*. SCRC supported them and agreed to their implementation within what was, a limited timeframe. It was an ambitious and commendable undertaking.

The council has made considerable progress. It has fully implemented eleven recommendations and partially implemented four. Implementation of a further five

¹ Compliance audit – Sunshine Coast Regional Council's compliance with the *Right to Information Act 2009* (Qld) and the *Information Privacy Act 2009* (Qld) - Report No. 1 of 2021-22 to the Queensland Legislative Assembly, tabled in Parliament on 30 November 2021, and available on www.oic.qld.gov.au.

recommendations is on track. SCRC has made some progress to implement the remaining two recommendations.

The figure below summarises the council's progress.

Implementation status of recommendations

| | Total | Status | | | |
|------------------------------|-----------|-------------------|-----------------------|-------------|---------------|
| | | Fully implemented | Partially implemented | In progress | Some progress |
| Leadership and governance | 5 | | 2 | 3 | |
| Proactive disclosure | 4 | 4 | | | |
| Formal access to information | 3 | 3 | | | |
| Privacy | 5 | 2 | | 1 | 2 |
| Camera surveillance | 5 | 2 | 2 | 1 | |
| TOTAL | 22 | 11 | 4 | 5 | 2 |

Source: Office of the Information Commissioner

The council's information management and governance framework has undergone significant change. There is now a tighter focus from SCRC's key information governance body to strengthen right to information and privacy objectives into core council operations. New terms of reference explicitly express proactive disclosure objectives and privacy by design.

While the information governance framework is robust, the plans, policies and procedures are not yet sufficient to fully support the framework and drive right to information and privacy aims. Without this, it is difficult to embed pro-disclosure and privacy by design into council operations.

SCRC is taking steps towards implementing performance measures about access to information and information privacy outcomes that we found absent in our initial audit. Getting this right, will provide the council with insights to assess the effectiveness, and risks associated with, right to information and privacy requirements and to inform continuous improvement.

Training across right to information and information privacy is now mandatory for all new and existing council employees. The content is comprehensive, contemporary and

tailored to the council's context. The platform used for dissemination is practical and fit for purpose. It is an important and welcome advance. However, processes to check completion of the training when due are not working as effectively as they could.

The council has strengthened its proactive disclosure and administrative release framework. Its publication scheme, disclosure log, administrative access policy and information asset are now up to date and consistent with good practice. It shows the council's commitment to routinely identifying and making information available to the community as part of its normal business.

SCRC has developed good resources to manage and process formal access applications. Useful information is available to the public about the application process. Collectively, these practices are effective and improve the council's efficiency in processing applications.

The council has made real inroads into how it manages and handles personal information. It has updated its resources and collection notices. They are consistent with legislative obligations and helpful to the community.

However, there are still some areas for improvement. While the council has started to integrate privacy impact assessments in its risk management and project management methodologies, it does not routinely complete privacy impact assessments for its projects.

Of greater concern, SCRC does not have a framework in place to manage the release of de-identified data, although it has developed two policies currently under review. This creates a risk that individuals may be re-identified from documents the council has released. SCRC acknowledges it has more work to do. We encourage the council to act quickly to mitigate privacy risk.

The council has developed a new optical surveillance framework to coordinate how it manages its surveillance systems. However, some legacy policies and procedures are still in place and overlap with the new framework. This creates a risk of inconsistent practices and inefficiencies when handling requests to access footage.

Similar issues apply to managing requests from the Queensland Police Service (QPS). The council has a clear and logical procedure for responding to requests for access to CCTV footage from the QPS, but it does not capture requests for footage from other types of devices. Under the framework, the council should have in place procedures to handle QPS's requests for footage consistently, regardless of the type of optical surveillance device used to record the footage. SCRC is working to overcome this inconsistency.

The council has affixed appropriate collections notices close or adjacent to the cameras. The framework for storing and securing its footage, including against unauthorised access or misuse, is comprehensive and clear. Good and practical checklists guide the process.

Agency comments

We provided a copy of this report to SCRC for comments. We have considered the council's views when developing our conclusions and represented them to the extent relevant and warranted in preparing this report. SCRC's comments are in the Appendix.

1 Context

SCRC delivers a range of local government services, and builds and maintains community infrastructure including roads, drainage, sporting venues and other recreational facilities.

In 2021-22 we audited² its compliance with right to information and information privacy legislation and made 22 recommendations. The council supported the recommendations and agreed to implement them by 31 January 2023.

We commenced the follow-up audit in February 2023. SCRC reported its progress in implementing each recommendation and provided supporting evidence. We reviewed the evidence received and performed risk-based checks to gain assurance on the council's actions and implementation status.

Figure 1 explains the ratings we used.

Figure 1
Implementation status ratings

| Rating | Description |
|-----------------------|--|
| Fully implemented | The agency has implemented the recommendation substantially or in its entirety. |
| Partially implemented | The agency has implemented part(s) of the recommendation, but it has not fully satisfied the intent of the recommendation. |
| In progress | The agency has taken action to implement the recommendation and efforts to complete implementation are ongoing. |
| Some progress | The agency has taken preliminary steps to implement the recommendation. Progress is limited and the underlying issues are not yet addressed. |

Source: Office of the Information Commissioner

Chapters 2 to 6 present our findings on how SCRC implemented the recommendations.

² Compliance audit – Sunshine Coast Regional Council's compliance with the Right to Information Act 2009 (Qld) and the Information Privacy Act 2009 (Qld) - Report No. 1 of 2021-22 to the Queensland Legislative Assembly, tabled in Parliament on 30 November 2021, and available on www.oic.qld.gov.au.



2 Leadership and governance

2.1 Introduction

Strong leadership is critical to agencies meeting their right to information and information privacy obligations. An effective information management framework assigns leadership responsibility and coordinates information governance across the organisation.

In 2021-22, we reported that SCRC had elements of right to information and information privacy aims in its information management and governance framework. However, it had deficiencies. For example, governance procedures did not explicitly promote or drive right to information or information privacy objectives.

We said:

The absence of clear leadership and responsibility for delivering on the right to information or information privacy objectives makes it more difficult to establish a pro-disclosure culture. An understrength privacy culture increases the risks of privacy breaches and complaints. A privacy breach can have serious consequences for the individual whose privacy has been breached and the agency.

At the time, the council's information management and governance was undergoing significant change, with the rollout of its information management maturity roadmap. It meant that the council could build the objectives of right to information and information privacy in its revised framework.

Agencies also need to have adequate systems to monitor the performance of their right to information and information privacy operations. Without this, agencies risk noncompliant and inefficient practices. Our original audit found that SCRC had limited measures for monitoring progress in achieving the broader aims of pro-disclosure and privacy by design. This means that it was unable to point to areas of good practice and identify processes that require additional effort.

Accurate and quality driven training helps staff understand how to apply their agency's right to information and information privacy obligations. The training should be tailored to the agency needs and circumstances. We reported that the enrolment process for mandatory information privacy training was good, but the council needed to ensure that

all staff complete it when due. At the time, right to information training was not mandatory.

Figure 2 shows the implementation status of the recommendations about SCRC's leadership and governance.

Figure 2
Leadership and governance

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-----------------------|
| 1 | within twelve months, <ul style="list-style-type: none"> • establishes new terms of reference for the information governance body that incorporate proactive disclosure objectives and privacy by design within its scope and functions • develops an information governance framework and supporting documented plans, policies and procedures to drive right to information and information privacy aims. | In progress |
| 2 | within 18 months, implements the information governance framework and associated plans, policies and procedures developed under Recommendation 1 to embed a pro-disclosure and privacy by design culture through active leadership. | In progress |
| 3 | within twelve months, develops and implements performance measures for access to information and information privacy outcomes. | In progress |
| 4 | within six months, <ul style="list-style-type: none"> • mandates mandatory right to information training at induction for new staff and as a periodic refresher for existing staff • ensures all employees undertake and complete training on right to information • ensures the training content on right to information is comprehensive, contemporary and tailored to the council's context. | Partially implemented |
| 5 | within six months, develops, documents and implements processes to: <ul style="list-style-type: none"> • enrol all staff in right to information and information privacy training at induction (on-boarding of new staff) and as regular refresher training (existing staff) • check that all employees complete mandatory training on right to information and information privacy when due. | Partially implemented |

Source: Office of the Information Commissioner

2.2 Results and conclusion

Information management, leadership and governance

We made two recommendations on SCRC's information management and governance. They focus on strengthening the framework by explicitly incorporating right to information and privacy objectives into the terms of reference for the council's information governance body. The council should also implement policies, plans and procedures to support those objectives.

Terms of reference

In the initial audit, we found that Information Steering Committee terms of reference touched on, but not explicitly, right to information and information privacy objectives.

We recommended that SCRC establish new terms of reference for the committee that incorporate proactive disclosure objectives and privacy by design within its scope and functions.

The Information Steering Committee is SCRC's key body in its information management governance framework. The council has approved, and adopted, new terms of reference for the committee. Of its 12 key responsibilities, three include a privacy and right to information focus. They explicitly express proactive disclosure objectives and privacy by design.

Information governance framework and leadership responsibility

The Information Steering Committee relies on advice and recommendations of working groups under its oversight. Collectively, this framework drives right to information and information privacy aims.

SCRC's Inform Project aims to improve the council's information management framework and information maturity, including compliance with the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

The Inform Project Control Group oversees the project. It is responsible for monitoring the delivery of the project. Its commitment to pushing and driving right to information and information privacy aims is ambitious:

Correct management and protection of council records and information is required under the Public Records Act 2002. The Information Privacy Act 2009 requires council to protect and manage personal information it

collects, holds or shares. Transparency of the information that council holds is expected by the community and is a requirement under the Right to Information Act 2009.³

The Inform project will incorporate privacy by design and proactive release of information into all activities undertaken.

Active leadership, particularly within the Inform Project Control Group, requires clear responsibility to vigorously advocate for right to information and information privacy objectives. In the initial audit, we reported on benefits in appointing an executive sponsor to champion cultural change in SCRC's information management sphere.

The Inform Program Control Group has a Project Sponsor, akin to an executive sponsor. The position is for an active leader *'who champions the project, removes obstructions, understands the overall strategy and goals of Council, and has depth in business knowledge.'*⁴ Other members within the group also have defined roles. It means that group members have clear responsibilities to ensure SCRC's compliance with its right to information and privacy obligations.

The group members know how right to information and information privacy apply in their usual roles. This helps ensuring that right to information and information privacy are at the forefront of committee deliberations, development and design. It also strengthens council's ability to drive right to information and information privacy aims and embed a pro disclosure and privacy by design culture through active leadership.

This approach will help the council to embed a pro disclosure and privacy by design culture in council's operations.

Once the Inform Project becomes operational, SCRC's Data and Information Working Group will assume responsibility as the main governance body to drive information management, information privacy and right to information objectives. The purpose and objectives of this group support continuity with the strategic focus remaining on privacy by design and proactive release approach from council.

³ Inform Program Control Group, Terms of Reference, (2023), Sunshine Coast Regional Council, page 6.

⁴ Inform Program Control Group, Terms of Reference, (2023), Sunshine Coast Regional Council, page 7.

Plans, policies and procedures

Comprehensive and accurate documents support the information governance framework and drive right to information and privacy aims. In our initial audit, we found there were gaps.

The council is committed to reviewing its existing policies and procedures about information access and management, custodianship, and open data. It has a plan for this review and has drafted key documents. These drafts have explicit statements about right to information and information privacy, and the council's commitment.

Once implemented, the policies and procedures will help SCRC's information governance framework drive right to information and privacy aims and support a pro-disclosure and privacy by design culture.

We assess Recommendation 1 as in progress to implementation.

We assess Recommendation 2 as in progress to implementation.

Performance monitoring

When agencies monitor their performance in right to information and information privacy, they can detect instances of non-compliance and identify opportunities to improve service delivery.

In our original audit, we found there was a weekly high-level summative update on the status of right to information applications and internal and external reviews, and statistical information about complaints. We did not find measures about proactive disclosure, privacy breaches or training all staff in right to information and information privacy.

We recommended that SCRC develop and implement performance measures for access to information and information privacy outcomes.

The council has identified, proposed and approved, three performance measures.

The council intends to increase the number of information assets available to the public and report in its quarterly Operational Plan. The council advised that it is already measuring and disclosing the percentage of identified information assets disclosed to the public, through the existing Operational Plan. Identifying more information assets as suitable for public release, and making them available furthers the 'push model'. SCRC is developing a clear process to implement its target.

SCRC also proposes to use an annual survey to monitor community satisfaction levels of its right to information and information privacy services. It aims for a 60% satisfaction target. Used astutely, data generated from a survey may help the council to identify:

- information to publish proactively
- opportunities to improve the quality and efficiency of agency processes
- training needs; and
- legislative compliance issues.

The council still needs to develop clear procedures to undertake survey data analysis and response measures.

SCRC's third proposed performance is to assess right to information and privacy information training rates. This type of training is now mandatory at the council. Although not strictly a performance measure for access to information and information privacy outcomes, it is useful. It gives some insight as to the effectiveness of right to information and privacy training as a mitigation strategy.

The council advised that it will report on the outcome of its performance measures from 2023-24. We expect that these performance measures, once refined and implemented, will provide the council with insights to assess the effectiveness, and risks associated with, right to information and privacy requirements and to inform continuous improvement.

We assess Recommendation 3 as in progress to implementation.

Training and awareness

In 2021, training in right to information at SCRC was voluntary. Only a limited number of staff completed the training. This meant that the council was at risk of having staff with an inadequate understanding of their right to information obligations.

We recommended that SCRC make right to information training mandatory, at induction for new staff and as a periodic refresher for existing staff and ensure that all employees undertake and complete this training. We recommended that the training be comprehensive, contemporary and tailored to the council's context.

SCRC launched a mandatory right to information training program in December 2021. It included right to information training as part of its induction program for all new SCRC employees. Existing employees must undertake refresher training every two years.

The training modules are accurate and comprehensive. The content is tailored to SCRC and includes practical scenarios specific to information requests that the council may receive.

SCRC use an automated learning management system to manage its training needs. The council's employees, new and existing, have access to its training courses. The system has processes to enrol in and monitor completion of mandatory training. Managers also rely on this system to see their staff's training requirements, and whether it has been completed.

The automated learning management system records the status of training modules. It issues generic emails to alert the council staff they need to complete the training. This happens at the time of induction and for refresher training.

There is also an automated reminder notification process. The system messages both the employee and their line manager to remind them to complete mandatory training. However, there is no further escalation process beyond the line manager for employees who fail to complete the training.

The council has a register that lists employees who have completed the mandatory training. It generates annual completion rate reports for right to information training for compliance and reporting obligations. Team leaders can access online mandatory real time training records to track and manage progress.

These practices do, to some extent, allow the council to check employee training completion rates. But they are less effective in identifying non-completion.

The council was unable to demonstrate that it can readily extract details about the number of the council's employees who have completed, or not completed, training in right to information. This means that we are unable to determine that all employees complete the mandatory training on right to information.

We assess Recommendation 4 as partially implemented.

Agencies need processes and procedures that ensure all employees complete the training when due. When employees do not complete mandatory training within the specified period, training is less effective as an education tool and mitigation strategy against risks to right to information and information security.

We recommended that SCRC develop, document, and implement processes across both information privacy and right to information to:

- enrol all staff in right to information and information privacy training at induction (on-boarding of new staff) and as regular refresher training (existing staff)
- check that all employees complete mandatory training on right to information and information privacy when due.

The council's learning management system is largely responsible for enrolling staff in the relevant training modules and recording completion. However, SCRC's processes do not enable systematic checking that staff complete training **within the mandated timeframe**. This means the council is not mitigating its information security risk effectively as it could.

We assess Recommendation 5 as partially implemented.

3 Proactive disclosure

3.1 Introduction

Under the *Right to Information Act 2009*, government agencies should release information as a matter of course, unless there is a good reason not to. Formal access applications under the Act should be the last resort.

Proactive disclosure and administrative release increase the flow of government-held information to the community. This approach raises community confidence in government agencies.

Information is an asset and agencies must manage it as they manage their other assets. They should know what information they hold and classify it to ensure they make as much of it publicly available as possible.

In our original audit, we found that SCRC published a publication scheme and disclosure log on its website. However, some key components were missing, either in published materials or procedures.

The council promoted administrative access to its information but there was no policy supporting this commitment. Without this, the council may have been less efficient and effective when considering low risk administrative access requests, particularly where the information is not sensitive or personal.

SCRC had an information asset register, but did not make it, or a version of it, available on its website. This meant that the council was not making the community aware of all the information assets it holds. As a result, members of the public may seek access under a legislative process to information that the council has had already determined suitable for administrative release.

Figure 3 shows the implementation status of the recommendations about proactive disclosure.

Figure 3
Proactive disclosure

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-------------------|
| 6 | within six months <ul style="list-style-type: none"> • updates its procedure to explain what is significant and appropriate information for including in its publication scheme • includes advice on users' ability to make a complaint on the availability of information in its publication scheme; includes a link to its complaints process | Fully implemented |
| 7 | within six months, updates its disclosure log so that it is consistent with the Ministerial Guidelines by including: <ul style="list-style-type: none"> • a statement about blank pages • all criteria around why some documents, or parts of documents, may not be in its disclosure log. | Fully implemented |
| 8 | within twelve months, <ul style="list-style-type: none"> • develops an administrative access policy that outlines the type of information staff can release, and the process for doing so • publishes the policy on its website. | Fully implemented |
| 9 | within twelve months, develops and publishes a version of the information asset register to better inform the community about the information it holds, and who to contact to request access to an information holding. | Fully implemented |

Source: Office of the Information Commissioner

3.2 Results and conclusion

Publication scheme

Under the *Right to Information Act 2009*, agencies must publish a publication scheme. The agencies must follow the Ministerial Guidelines.⁵

While SCRC had documented procedures for maintaining its publication scheme, they did not explain what was significant and appropriate information. This absence meant that staff did not have proper guidance to decide whether to include documents in the publication scheme.

⁵ Ministerial Guidelines for Publication Schemes and Disclosure Logs available at www.rti.qld.gov.au.

The council has updated its procedures, and they are now consistent with the Ministerial Guidelines. Its Administrative Access & Right to Information Guideline explains what significant and appropriate information is, for including in the publication scheme.

A council guideline also helps employees to identify and record common requests for information. This is good practice. It will support SCRC to further improve its processes and maximise the amount of information available to the public. While not recommended in our initial audit, it shows the council's commitment to routinely identifying and making information available to the community as part of its normal business.

At the time of our original audit, SCRC did not explain how individuals could complain about the publication scheme when information was not there. The council now provides a link to the complaints process.

We assess Recommendation 6 as fully implemented.

Disclosure log

A disclosure log ensures the public has access to a single source for information released in response to a right to information application. While there is no legislative obligation for local governments to maintain one, it is consistent with the principles of openness and transparency underpinning right to information. We encourage all agencies to maintain a disclosure log.

In our original audit, we found that the council had a disclosure log. We recommended some changes to ensure consistency with the Ministerial Guidelines.

SCRC has updated its disclosure log webpage. It now includes an explanation about why there are blank pages in its documents on the disclosure log:

The current ministerial guidelines state that "departments and Ministers are not expected to publish blank pages on disclosure logs". Nevertheless, some items included in council's disclosure log may include blank pages, as these provide a placeholder for page numbering, plus they indicate the existence and extent of documents to which access was refused.⁶

⁶ Disclosure log – released information available at www.sunshinecoast.qld.gov.au

There is also information about why some documents, or parts of documents, may not be in its disclosure log.

We assess Recommendation 7 as fully implemented.

Administrative access

In our original audit, we reported that the council promoted administrative access to the information it holds ahead of applications under the legislative process. SCRC had established a range of administrative access schemes, including MyMaps and an open data portal.

We recommended that the council develop an administrative access policy that outlines the type of information staff can release, and the process for doing so. We also recommended that SCRC publish the policy on its website.

The council has an administrative access policy on its website. It commits to providing information to the community, for example online and in publications scheme, or through libraries and customer contact centres, administrative release.

The policy also outlines the type of information staff can release and how that may happen. For example, community members can contact the council and request copies of emails sent between them and the council, without a formal application process. This supports the push model of disclosing government-held information unless there is a good reason not to.

We assess Recommendation 8 as fully implemented.

Information asset register

An information asset register supports a systematic approach to identifying and classifying information holdings and datasets. This helps agencies determine which information is suitable for public release. Agencies that publish a version of the information asset register, for example on their websites, inform the community about the assets they hold, and assist community members to focus requests for information.

At the time of our initial audit, SCRC had an information asset register. It listed a number of its information assets and identified those that were suitable for public release. The register was not available on the council's website.

We recommended that SCRC develop and publish a version of the information asset register and identify who to contact to request access to an information holding.

A version of SCRC's information asset register is now available on the council's website, more specifically on its Open Data Platform. It can be accessed through the 'Right to information and accessing documents' webpage.

The public can request access to an information asset by emailing the council's open data network. SCRC's open data platform automatically generates the email.

We assess Recommendation 9 as fully implemented.



4 Formal access to information

4.1 Introduction

The *Right to Information Act 2009* gives a right of access to government-held information unless, on balance, releasing the information would be contrary to the public interest. It means that agencies processing formal applications under the Act must disclose information unless there is a good reason not to.

Appropriate resources support agencies to manage and process formal access applications efficiently and effectively. For example, a dedicated case management systems and a comprehensive suite of template documents improve efficiency and support a consistent and compliant process.

The community should also be able to access up to date and accurate information to understand the application process, from start to finish. This helps the community and agencies equally and makes the process more efficient and effective.

In our initial audit, we found the council's right to information webpage was easy to locate but it could explain the requirements for a valid application better.

SCRC's procedure about processing applications was comprehensive and included examples of good practice. There were some minor inconsistencies with the prescribed requirements.

We identified improvement opportunities about the suite of template documents to support a consistent, efficient and legislatively compliant process.

Figure 4 shows the implementation status of the recommendation about right to information.

Figure 4
Right to information

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-------------------|
| 10 | <p>within six months,</p> <ul style="list-style-type: none">updates its right to information webpages so they are complete and consistent with the <i>Right to Information Act 2009</i> and the <i>Information Privacy Act 2009</i>develops and approves a stand-alone right to information policy | Fully implemented |

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-------------------|
| | <ul style="list-style-type: none"> publishes the policy and links it from the right to information webpage. | |
| 11 | within six months, updates its Administering Right to Information & Information Privacy procedure so that it is consistent with better practice and prescribed requirements. | Fully implemented |
| 12 | within twelve months, <ul style="list-style-type: none"> updates existing template notices so that they are consistent with prescribed requirements develops a comprehensive suite of template notice documents to support legislatively compliant and more efficient application handling. | Fully implemented |

Source: Office of the Information Commissioner

4.2 Results and conclusion

Right to information resources

At the time of the original audit, SCRC had a good, easy to find, Right to Information webpage. It contained information about the application process that was generally consistent with the *Right to Information Act 2009* and *Information Privacy Act 2009*. The council also had a draft 'Information Privacy and Right to Information' policy. We identified opportunities to improve the content of both resources.

We recommended that the council update its right to information webpages and develop, approve and publish a stand-alone right to information policy.

SCRC's 'Right to information and accessing documents' webpage now better explains to the community what right to information is. It also describes the requirements for lodging a valid application. The advice posted on the webpage is consistent with application requirements under the *Right to Information Act 2009* and *Information Privacy Act 2009*.

The council has developed a new 'Administrative access and Right to Information' policy. It replaces the draft policy reviewed in our initial audit. The new policy, and supporting guideline, reinforce the legislative mechanism for the public to apply for access to council-held information, not otherwise available through administrative access channels. The policy is published on SCRC's website and linked to the right to information webpage.

We assess Recommendation 10 as fully implemented.

Procedures, systems supporting compliant application handling

SCRC had an 'Administering Right to Information & Information Privacy' procedure. In the initial audit we noted examples of good practice in the procedure. It was comprehensive and covered all aspects of the application process. We also found minor inconsistencies and opportunities to clarify application handling requirements, particularly where applications required considering, or consulting with, third parties.

We recommended that the council update its procedure.

SCRC has updated its procedure for the areas identified. It is now clearer. For example, the procedure mentions what the council must do when it considers disclosing a document that may be of concern to a third party.

The procedure is accurate and consistent with the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

We assess Recommendation 11 as fully implemented.

At the time of our initial audit, the council had a limited number of template notices. They did not support decision-makers in handling access applications efficiently, consistently and in compliance with the requirements.

We recommended the council, update and develop a comprehensive suite of template notice documents to support legislatively compliant and more efficient application handling.

SCRC has developed additional template notices to support efficient application handling. The notices are up to date and consistent with the Acts. This means that the council's decision-makers are better resourced and supported to be effective and efficient in managing and processing formal access applications.

We assess Recommendation 12 as fully implemented.



5 Privacy

5.1 Introduction

The *Information Privacy Act 2009* sets out how agencies must handle personal information. Under the Act, agencies other than health agencies must comply with the 11 Information Privacy Principles (IPPs).⁷

Government agencies controlling documents that contain personal information must take reasonable steps so a person can find out what personal information agencies hold and how they are using it.

They must not collect personal information unless it is necessary for their functions or activities. When an agency tells individuals about the personal information it collects, uses and usually discloses, we call this a collection notice. If practicable, the agency should provide the collection notice before, or at the time, it collects personal information.

In our original audit, we found that the council was open and transparent about its privacy obligations. Its practices, however, were not always consistent with legislation. This increased the risk of non-compliance with the *Information Privacy Act 2009* and the IPPs.

Like the majority of Queensland local governments,⁸ the council had not yet embedded privacy impact assessments into its core business. This means it could not be sure it had identified the privacy risks of its activities or projects, and may not have mitigated them effectively.

Figure 5 shows the implementation status of the recommendations about privacy.

⁷ Health agencies are required to comply with the National Privacy Principles, rather than the IPPs, and with the rules about contracted service providers and transfer of personal information out of Australia.

⁸ Our report - 10 years on: Queensland government agencies' self-assessment of their compliance with the Right to Information Act 2009 and the Information Privacy Act 2009 available on www.oic.qld.gov.au.

Figure 5
Privacy

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-------------------|
| 13 | <p>within six months, updates its Information Privacy organisational policy and other privacy resources so they:</p> <ul style="list-style-type: none"> • are complete and consistent with all privacy principles and obligations of the <i>Information Privacy Act 2009</i> • explain privacy complaints, including how a person can bring their complaint to the Office of the Information Commissioner. | Fully implemented |
| 14 | <p>within twelve months,</p> <p>reviews collection notices for all forms including those on the council websites and ensures they have, or link to, an appropriately worded collection notice that complies with the <i>Information Privacy Act 2009</i>.</p> | Fully implemented |
| 15 | <p>within twelve months,</p> <p>publishes the types of personal information it holds and the main purposes for which the information is used.</p> | Some progress |
| 16 | <p>within six months,</p> <p>reviews its governance arrangements for publishing public data, including relevant policies and procedures, to adequately manage re-identification risk.</p> | Some progress |
| 17 | <p>within twelve months,</p> <ul style="list-style-type: none"> • integrates privacy impact assessments in its risk management and project management methodologies and tools • ensures it completes privacy impact assessments at the planning stage of future projects • proceeds with its intentions to undertake privacy impact assessments for all current projects and for projects finalised within the last 12 months. | In progress |

Source: Office of the Information Commissioner

5.2 Results and conclusion

Information privacy resources

At the time of our original audit, the council had developed information privacy resources. They were easy to locate and access on its website. The resources had

many positive elements and were generally consistent with the *Information Privacy Act 2009*.

We recommended that SCRC update its privacy resources to ensure they are complete and consistent with all the privacy principles and legislative obligations. We also recommended that the council explain the process for making privacy complaints.

The council has reviewed and updated its privacy policy. It is published and easy to find on the council's website.

The policy has been updated since our initial audit. It elaborates on the council's privacy commitments and clarifies privacy obligations we identified as lacking in detail in our initial audit. For example, the guiding principles now better explain how the IPPs and SCRC's legislative obligations are integrated into council's business processes. While there are still some minor opportunities for improvement, the privacy policy is consistent with all the privacy principles and obligations of the *Information Privacy Act 2009*.

A comprehensive guideline supports the privacy policy. It gives good and practical examples to help staff identify and manage personal information held by the council. For example, it clarifies the obligations about collecting and using personal information when SCRC uses social media and mobile application services. Explicit guidance for these types of digital platforms is critical. It reduces the risk of noncompliance with the IPPs when SCRC uses these services. It also ensures the council's practices are consistent with its obligations under the *Information Privacy Act 2009*.

The privacy policy has a section for making a privacy complaint to SCRC. It includes information about escalating privacy complaints to the Information Commissioner.

We assess the implementation status of Recommendation 13 as fully implemented.

Collection notices

At the time of our original audit, SCRC forms generally included appropriate advice about the reasons for collecting, using and disclosing information. Two of the forms we tested were not compliant. We found some other inconsistencies, mostly where other websites hosted the council's online forms.

We recommended that the council review collection notices for all forms including those on its websites and ensure they have, or link to, an appropriately worded collection notice that complies with the *Information Privacy Act 2009*.

SCRC undertook a stocktake of its website for all its collection notices. It explained that that all online forms now have a link to an appropriate collection notice. Of the samples we tested, this is the case. The collection notices on the council's website, and in a word document, are generally good and compliant.

SCRC supplied details of its framework to ensure that moving forward, all council forms are consistent and accurate.

We assess the implementation status of Recommendation 14 as fully implemented.

Personal information holdings

Government agencies are required to ensure that individuals can find out the sort of personal information held and the purposes for holding that information. The agencies do not have to specifically document all the personal information they hold. Rather, it is sufficient to name generic information about the types or classes of personal information held.

In the original audit, the council's privacy policy did not detail the types of personal information it held or how it used the information. The intranet did have some information about that, but this was not available to the public. We recommended that the council publish the types of personal information it holds and the main purposes for which the information is used.

SCRC has taken steps towards implementing the recommendation. There is a plan in place to:

- undertake a stocktake of the types of personal information it holds and identify the main purpose for which the information is used
- expand the scope of council's information asset register to incorporate types of personal information and the purpose of use; and
- publish the information as it becomes available in the publicly available information asset register.

We see the value in integrating a privacy information register into SCRC's published and existing information asset register. The council advised it has started the stocktake, however there is more work to do to implement the recommendation.

We find that council has made Some Progress towards implementation of Recommendation 15.

De-identifying data

Releasing de-identified data can generate significant privacy risk if not managed properly. Agencies should have appropriate governance arrangements and systems in place to manage re-identification risk and protect the personal information of individuals.

In our initial audit, we found that personal information was accessible from some of the council's published datasets. When alerted, SCRC immediately removed these from its website.

We recommended that the council review its governance arrangements for publishing public data, including relevant policies and procedures, to adequately manage re-identification risk.

SCRC has drafted two policies. It has also mapped a process to show how information is shared externally. These documents are currently being reviewed or are in a consultation phase. Each represents an opportunity to put in place appropriate governance arrangements and robust risk management processes for publishing de-identified data.

We expect that once its review is complete, the council will be in a better position to adequately manage re-identification risk. However, the steps taken by council so far, are at best preliminary. Progress has been slow and continued delay increases risk. Implementation may still take some time.

We assess that SCRC has made Some Progress towards implementing Recommendation 16.

Privacy impact assessments

All agencies must protect the personal information they collect, use, hold or disclose, and implement appropriate safeguards as part of everyday business.

Privacy impact assessments are a tool that agencies can use to assess the privacy impacts of an activity, project or proposal. They show ways to manage privacy risks and meet privacy obligations.

At the time of our initial audit, the use of privacy impact assessments was a relatively new concept for SCRC. The council advised it intended to incorporate privacy impact assessments and risk assessments into its practices, past and present, but details were scant.

We recommended that the council:

- integrate privacy impact assessments in its risk management and project management methodologies and tools
- ensure it completes privacy impact assessments at the planning stage of future projects
- proceed with its intentions to undertake privacy impact assessments for all current projects and for projects finalised within the last 12 months.

SCRC has incorporated privacy impact assessments into its processes. Operational templates, policies and procedures support that process. They show how the council is integrating risk management and project management methodologies and tools into its practices. SCRC has implemented the first part to the recommendation.

However, many of the privacy impact assessments we examined were incomplete. This generates a significant risk for the council's ability to protect personal information and shows an understrength governance framework.

SCRC is still committed to implementation. There is more work to do, as to date, the process to complete privacy impact assessments for future projects and retrospectively is yet to be embedded.

We assess Recommendation 17 as in progress to implementation.

6 Camera surveillance

6.1 Introduction

Government agencies use camera surveillance to protect property and public safety. They must manage their systems, and images captured in those systems, such as through CCTV and body worn cameras, in line with the *Information Privacy Act 2009*.⁹

Agencies should collect personal information only as needed for a lawful purpose. They must take all reasonable steps to make individuals aware that cameras are operating and explain how they can access their personal information in footage.

In our original audit, we reported on how the council managed its camera surveillance systems. We expected SCRC to have compliant practices for collecting, storing, using and disclosing personal information in footage.

We found that the council did not meet a range of legislative obligations when operating its surveillance camera network. It did not follow consistent practices, for example when handling requests from the QPS to access footage.

We made five recommendations to improve the council's legislative compliance. Figure 6 shows the implementation status of the recommendations about camera surveillance.

Figure 6
Camera surveillance

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-----------------------|
| 18 | <p>within twelve months, implements a co-ordinated approach to managing its surveillance systems to ensure its policies, procedures and practices:</p> <ul style="list-style-type: none">• are consistent with the council's legislative obligations, under the <i>Right to Information Act 2009</i> and the <i>Information Privacy Act 2009</i>• cover all surveillance technologies and recording devices• are consistent for like functions and activities, for example, handling requests for footage | Partially implemented |
| 19 | within twelve months, | Fully implemented |

⁹ The *Information Privacy Act 2009* (Qld) contains 11 IPPs. Agencies must comply with the IPPs. IPP4 covers storage and security of personal information. IPP11 prescribes limits on disclosure of personal information.

| We recommended that Sunshine Coast Regional Council: | | Status |
|--|---|-----------------------|
| | installs council signs and notices, including for public spaces, buildings and vehicles, to make people generally aware that it is using cameras to collect personal information in the vicinity of the notices. | |
| 20 | within twelve months, develops, documents and adopts practices that comply with its information privacy obligations for securing and storing camera footage for all of its surveillance systems. | Fully implemented |
| 21 | within twelve months, develops and adopts standardised practices that comply with its right to information and information privacy obligations when handling requests for access to footage from members of the public for all of its surveillance systems | Partially implemented |
| 22 | within twelve months, reviews its arrangement with the Queensland Police Service for the operation of camera surveillance, and takes all steps necessary to ensure: <ul style="list-style-type: none"> • it adopts consistent practices for handling requests for footage • it complies with the <i>Information Privacy Act 2009</i>. | In progress |

Source: Office of the Information Commissioner

6.2 Results and conclusion

General operations

Privacy obligations arise when agencies collect, store, use and disclose personal information.

At the time of the original audit, SCRC had various and inconsistent policies and procedures for operating its fixed and portable surveillance cameras. We recommended that the council implement a coordinated approach to managing its surveillance systems to ensure legislative compliance and consistency across all types of surveillance devices.

The council has implemented a broad optical surveillance framework. A policy and a guideline provide a clear structure for SCRC to manage all optical surveillance systems. They outline the processes from access requests to disclosure.

The framework also applies to all of SCRC's surveillance technologies and recording devices. It is consistent with SCRC's legislative obligations under the *Right to Information Act 2009* and *Information Privacy Act 2009*.

However, some legacy policies and procedures are still in place and overlap with the optical surveillance framework. When a particular type of device (such as CCTV and body worn camera) requires more detailed procedures, the council needs to ensure that policies and procedures do not offer conflicting advice. Otherwise, it creates a risk of inconsistent practices and inefficiencies.

We assess Recommendation 18 as partially implemented.

Collection (Information Privacy Principle 2)

Agencies operating surveillance devices must take all reasonable steps to make individuals aware that they collect footage by placing prominent signs where the cameras operate.

At the time of the original audit, we found a lack of collection notices near the surveillance cameras. This meant that SCRC was not meeting its obligations under IPP 2.

We recommended that the council install signs and notices near the cameras, including public spaces, buildings and vehicles, to make people generally aware that it is using cameras that collect personal information.

The council's facilities now have appropriate collection notices close or adjacent to the cameras. The notices identify the council and include contact details and the purpose for collecting the footage.

We assess Recommendation 19 as fully implemented.

Storage and security (Information Privacy Principle 4)

When an agency has control of video footage, IPP4 sets the requirements for adequately storing and securing the footage, including against unauthorised access or misuse.

At the time of the original audit, SCRC's systems and procedures about storing and protecting footage were inconsistent. Recommendation 20 required the council to develop, document and adopt practices that comply with its information privacy obligations for securing and storing camera footage for all surveillance systems.

SCRC has put in place a documented framework. Its overarching optical surveillance framework, supported by the policy and guideline, deals with secure storage and records management. The documents are comprehensive and include examples of physical, technical, and operational safeguards security measures. There are also practical checklists. The council has adopted these practices.

We assess Recommendation 20 as fully implemented.

Access to footage (Information Privacy Principle 6)

Agencies have obligations to manage requests for access to images they collect and store. At the time of our original audit, the council had inconsistent practices and information about how individuals could request access, particularly for its different types of surveillance devices. SCRC's practices to respond to requests were also not consistent.

We recommended that the council develop and adopt standardised practices that comply with its right to information and information privacy obligations when handling requests for access to footage from members of the public for all its surveillance systems.

Since our initial audit, SCRC has created new practices. Its optical surveillance policy and guideline are the cornerstones of its revised framework which applies to all of the council's optical surveillance and recording devices. It deals with administrative and formal requests for footage from these devices. The standardised approach adopted by SCRC, seeks to promote consistency for requests for access to footage from members of the public for the array of optical surveillance devices.

However, SCRC's optical surveillance policy and guideline do not explicitly detail how the council will manage requests for optical surveillance footage. Rather, they point towards other SCRC policies, such as its Administrative Access & Right to Information Policy, for guidance to manage requests for optical surveillance footage. These policies do not have information specific to, requesting footage from its optical surveillance systems.

SCRC now outlines its practices when handling requests from members of the public for access to footage in:

- Closed Circuit Television (CCTV) in public spaces webpage
- Public Spaces Closed Circuit Television (CCTV) Policy; and
- 'Customer Response Body Worn Camera Footage Application' form.

Each gives information about requesting footage, some more than others. However, they still do not outline a uniform approach to handling requests for access to footage from members of the public for all SCRC surveillance systems. At base level, the optical surveillance framework does not connect with SCRC's broader access framework. This creates risk that requests for footage will be handled inconsistently.

We assess Recommendation 21 as partially implemented.

Disclosure (Information Privacy Principle 11)

At the time of our initial audit, the council had a form that the QPS could use to request footage, but it was missing some key components. There was also a lack of standardised processes, policies and procedures.

We recommended that the council review its arrangements with the QPS for the operation of camera surveillance. SCRC should take all steps necessary to ensure that it adopts consistent practices for handling requests for footage and it complies with the *Information Privacy Act 2009*.

The council has a documented procedure for responding to requests for access to CCTV footage from QPS. It is clear and logical. It includes practical considerations for its staff to consider. However, this procedure does not capture requests for footage from other types of devices.

SCRC has also updated its request form for use by QPS. The form contains most of the necessary elements but still does not explicitly include IPP 11(1)(c), noted in our initial audit. This is an important exemption and should be referenced. It is not clear whether QPS can use the form to request footage from surveillance devices other than CCTV.

Agencies increasingly use surveillance devices. They need to put in place procedures to handle access requests efficiently, consistently and in compliance with their obligations.

Under the optical surveillance framework, the council should handle QPS's requests for footage, regardless of the type of optical surveillance device that is used to record the footage, in a consistent manner. This has not been translated into practice. SCRC advised it is currently reviewing how it manages requests for footage including body worn camera and other video records, to ensure a consistent and efficient approach.

We assess Recommendation 22 as in progress to implementation.



7 Appendices

In accordance with our policies and procedures, we provided this report to SCRC with a request for comment.

24 November 2023

Ms Stephanie Winson
Acting Information Commissioner
Office of the Information Commissioner
PO Box 10143
ADELAIDE STREET BRISBANE QLD 4000

Dear Ms Winson

FOLLOW UP AUDIT – RIGHT TO INFORMATION AND INFORMATION PRIVACY

I refer to your correspondence dated 17 November 2023 regarding the Office of the Information Commissioner (OIC) Report on the Follow Up Report No.1 for 2021-22, Audit of Sunshine Coast Council's compliance with the *Right to Information Act 2009* (Qld) and *Information Privacy Act 2009* (Qld).

I have reviewed the report and note the recommendations provided.

As recognised by the OIC within the Compliance Audit in 2021:

"As the Council embarks on an ambitious overhaul of its information and records management practices, it has a great opportunity to incorporate the push model and privacy by design into its new framework. It also needs to ensure that new or revised policies support practices that comply with all aspects of the Right to Information Act 2009 and the Information Privacy Act 2009."

Since the completion of the original audit, Council has invested considerable resources and effort in addressing the recommendations to strengthen our focus on the push model for access to information and privacy by design, which should give our community confidence in the way Council collects and uses personal information.

In this context, I would like to highlight my concern that this report does not adequately or appropriately reflect the significant effort that Council has placed on building its foundations by:

- enhancing our core policies, guidelines and supporting tools;
- developing and delivering training to our staff; and
- consolidation of our activities that recognises access to information privacy in our corporate governance frameworks.

All of these efforts contribute to the formation of a culture within Council that supports the principles of the legislation and demonstrate a considerable commitment to respond to and implement the recommendations from the original audit.

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Furthermore, Council has invested significant resources over the course of the last year in working with the OIC to facilitate the conduct of the follow-up audit and respond to every request made by your office.

As the OIC described Council's approach as ambitious, I contend that I doubt that other public sector organisations would be operating on a basis that satisfies both the entirety and intent of the recommendations posed in the original audit of Council. In that context, it would have been appreciated if an appropriate test of reasonableness in assessing and commenting on Council's responsiveness to both the original audit and the follow-up audit, had been applied.

To this end, I would like to highlight the significant achievements delivered by Council since the original report including, but not limited to:

- Implemented revised key policies, guidelines and tools to strengthen and support our on-going compliance with the *Right to Information Act 2009* and the *Information Privacy Act 2009*;
- Reviewed and published information on our external and internal facing websites to be transparent and inform the community of our push model of information access and privacy by design;
- Developed and delivered mandatory online training programs to support access to information and right to information and information privacy principles for all existing staff and onboarding of staff processes;
- Reviewed and implementing new Information Technology Governance structures, which incorporates proactive disclosure objectives and privacy by design within its scope and functions;
- Strengthened the open promotion of Council's Information Asset Register accessible to the community on our website;
- Redesign of Council's compliance activities which includes the review of all the privacy collection notices to strengthen the community's experience when dealing with Council and providing personal information; and
- Consolidation of the Optical Surveillance Organisational Policy and Guidelines, and the formation of the Optical Surveillance working party that continue to review and refine our practices in the management of our optical surveillance equipment and capability with the focus being directed towards the community and Council's assets.

Council has always considered compliance as a continual improvement journey and to date, I believe my officers have prioritised the implementation of the original recommendations, with full cognisance of community needs and expectations. It is considered the benefits achieved through the work done to date positions our Council well to be at the forefront of information access and privacy management.

Thank you for the provision of this opportunity to comment and I look forward to this response being published in full in the final report.

Yours sincerely



Emma Thomas
Chief Executive Officer

