

# A Joint Effort for Victorian Local Government Privacy

## Abstract

This article discusses the development of a Local Government Privacy Procedure Manual that was developed by Records Solutions (*a business of Kramenna Pty Ltd ATF the Kramenna Trust*), in conjunction with a Privacy Joint Venture comprising of 22 Victorian Councils (12 metropolitan and 10 rural). The article also discusses the main issues confronting Victorian Local Government in its conformance to the new privacy legislation.

## Overview of Privacy in Victoria

Victorian Public Sector agencies including Victorian Councils were required to comply with the *Information Privacy Act 2000* by 1 September 2001 and the *Health Records Act 2001* by 1 July 2002. The *Information Privacy Act* regulates the management, collection, use and disclosure of ‘personal and sensitive information’ whilst the *Health Records Act* regulates the management, collection, use and disclosure of ‘health information’.

‘Personal information’ and ‘Health information’ is either recorded information or an opinion, whether true or not, about a readily identifiable individual (or an individual whose identity can be reasonably ascertained). This information or opinion can be recorded as part of a database or as records held by an organisation.

The *Information Privacy Act* contains 10 Information Privacy Principles (IPPs) and the *Health Records Act* contains 11 Health Information Privacy Principles (HPPs). These principles are the practical cores of both pieces of legislation whereby the Victorian Public Sector agencies must comply.

## Formation of the Privacy Joint Venture

In early 2002 a Victorian Local Government Privacy Group was formed with representatives from a number of metropolitan and rural Councils. The purpose of the Group was to provide a forum whereby Councils could discuss the new *Information Privacy Act* and the *Health Record Act*, the issues and problems confronting Councils, and possible resolutions. After several meetings the Privacy Group decided that a Local Government Privacy Procedure Manual be developed for use by Victorian based Councils to ensure a consistent approach is taken on privacy related issues. The manual would be beneficial in that it would provide:

- A consistent approach towards privacy within Local Government.
- An opportunity to share ideas regarding privacy.
- An opportunity to select an approach from many views offered.
- An ability to address the ‘coal face’ issues of privacy in a ‘living breathing’ document.

It was the initial intention of the Privacy Group to share the workload and develop the manual ‘in-house’ as a joint contribution. However as the size and complexity of the manual became apparent, some of the Councils involved in the Privacy Group, suggested that Records Solutions develop the manual on their behalf. Consequently, Records Solutions was engaged by the Privacy Group to develop the Local Government Privacy Manual. Records Solutions approached other Victorian Councils not involved in the Privacy Group and the **Privacy Joint Venture** was formed

## **Development of the Local Government Privacy Procedures Manual**

Vast amounts of information was supplied by the participating Councils in the **Privacy Joint Venture**, state government departments, the Office of the Health Services Commissioner and the Office of the Privacy Commissioner, that enabled Records Solutions to develop a useful manual with plenty of practical examples relevant to Local Government in terms of the collection, use and disclosure of ‘personal’, ‘sensitive’ and ‘health’ information. The Manual deliberately focused on external organisations who Councils may have to deal with on a regular basis.

One of the challenges in developing the manual was the ‘diversity’ and ‘richness’ of information that Council must process in its normal business activities. This is due to the large number of different business units usually found in Victorian Councils. Accordingly separate chapters were developed covering Property records, Planning documentation and registers, Building documentation and registers, Council Governance, Local Laws, Employment records, Environmental Health, Libraries/Museums/Art Galleries, Recreation and Culture, Immunisation records, Maternal and Child Health, Child Care, Hostels and Nursing Homes, Home and Community Care, Children and Youth Services. During the development of these chapters the participants involved in the **Privacy Joint Venture** were approached to review and make comment on each chapter through their appropriate business units. This methodology proved very successful in that it allowed the core business units to have a valued input thus encouraging acceptance of the manual and its content. In addition, the procedures outlined in the manual were not imposed on Councils or their business units by ‘outsiders’.

## **Main Privacy Issues that confronted Local Government**

Privacy in Local Government is challenging due to the diversity of business functions that are performed by Councils. This creates a huge amount of varied information that is collected under different means such as telephone, internet, email, fax, forms, face-to-face, and correspondence. Subsequently, a significant number of Council forms used to collect this information needed to be reviewed and redesigned with generic collection statements.

Other privacy issues included:

- The requirement for some Council business units to operate solely under the Information Privacy Act (eg Property and Rates), some to operate solely under the Health Records Act (eg Immunisation Unit) and others to operate under both (eg Local Laws).
- The significant amount of Federal and State legislation that Councils had to consider including the Freedom of Information Act (FOI), Public Records Act, Land Tax Act, Income Tax Assessment Act, Aged Care Act, Health Act, Children and Young Persons Act, Cemeteries Act, Transport Accident Act etc. These Acts override the *Information Privacy Act* and the *Health Records Act* where an inconsistency occurs thus Councils had to be fully conversant on all relevant legislation. (Note: In the manual there are over 200 references to different pieces of legislation).
- The significant number of external organisations, some private and some government, that Council may be required to disclose information to. Examples include the Victorian and Federal Police, utility companies, State Revenue Office (SRO), Australian Tax Office (ATO), State Emergency Services (SES), Country Fire Authority (CFA), Department of Sustainability and Environment (DSE), Department of Human Services (DHS), RSPCA, Centrelink, Sheriffs Office, financial institutions etc.

- The requirement for external organisations requesting information from Councils to provide written requests stating: what information is required; the purpose of the request; and the legislation specifying Council's obligation to disclose.
- Disclosure of information to the public via Public Registers as required under various legislation. However as the primary purpose and prescribed format of Public Registers in most cases is not specified in relevant Acts, the manual outlined a number of recommended public register formats.
- The disclosure of information to 3<sup>rd</sup> party Council contractors and the requirement for 'enforceable terms' in new Council contracts. Existing Council FOI processes to continue for access and correction of 'personal', 'sensitive' and 'health' information.

## **The Future?**

Records Solutions and those Councils involved in the **Privacy Joint Venture** consider the manual as an ingredient, not an all-solving formula, in Council decision-making under the Victoria's *Information Privacy Act* and *Health Records Act*. Furthermore, the manual will evolve through regular updates to ensure the content is kept up to date and continues to reflect current State and Federal legislation. Records Solutions has been engaged by the **Privacy Joint Venture** to monitor and maintain the manual, initially on a half yearly basis. This involves keeping abreast of privacy related matters, changes in relevant legislation and the requirements of the Victorian Local Government sector.

This manual, which is now delivered to the **Privacy Joint Venture** and other Councils (1) who have subsequently purchased the manual, will provide an excellent foundation for Privacy in Local Government, supporting Councils to take the necessary steps for privacy conformance.

(1) At the time of writing this article, 31 Victorian councils were using the manual)

For further information or to purchase a copy of the Local Government Privacy Manual call Records Solutions on (03) 97473077.