



PERSONAL AND PRIVACY
INFORMATION MANAGEMENT
PROCEDURES

February 2003

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1 WHAT IS PERSONAL INFORMATION?

- 1.1** Personal information is any information or opinion about an individual person whose identity is apparent or can reasonably be ascertained. It will often include a person's name and other details for example information about financial or health matters.

2 WHAT IS NOT PERSONAL INFORMATION?

- 2.1** Personal information does not include information that is contained in a publicly available publication, for example, the phone book or the electoral roll, or information about a company. Some information held by council concerning roads, property and other aspects of council's business would not usually contain personal information.

3 COLLECTION OF PERSONAL INFORMATION

3.1 By what means can personal information be collected?

Personal information can be collected in the following ways:

- Verbally (in a meeting, over the counter, on the phone)
- Via forms completed by individuals
- Correspondence, including email/internet
From Government and non-Government organisations

3.2 What are the procedures for collecting personal information?

3.2.1 When collecting personal information, it must be:

- (a) for a purpose, and by methods, which are legal, and
- (b) for a purpose that directly relates to a function of Council

3.2.2 Council must take steps that are reasonable in the circumstances to ensure that when collecting personal information people are aware of

- (a) the fact that the information is being collected
- (b) the purposes for which it is collected
- (c) the intended recipients of the information
- (d) whether the supply of the information is required by law or is voluntary and any consequences for the individual if the information is not supplied, and
- (e) where the information will be stored

3.2.3 The information must be collected directly from the individual to whom it relates, unless:

- (a) they are under 16, in which event it can be collected from a parent or guardian
- (b) the person has consented to it being collected from someone else
- (c) the information is collected from another public sector agency, eg a government department or another council (*s.25 PPIP Act*)
- (d) you are investigating a complaint (*s.24(4) PPIP Act*)
- (e) it is collected in connection with proceedings (whether or not commenced) before any court or tribunal (*s.23(2) PPIP Act*)
- (f) Council is lawfully authorised not to comply (*s.25(a) PPIP Act*)
- (g) it is 'necessarily implied' or 'reasonably contemplated' under any Act that Council need not comply (*s.25(b) PPIP Act*), or
- (h) compliance would prejudice the interests of the person to whom the information relates (*s.26(1) PPIP Act*)

3.3 When do I not need to follow these procedures?

- (i) When Council receives unsolicited personal information.
- (ii) If personal information is given during the course of phone call. However, if you are making a phone call with the **express intention** of getting personal information about a person then you must comply with the procedures in 3.2.2 above
- (iii) If you are collecting the information for an award, prize, benefit or similar form of personal recognition from third parties and without advising the person to whom the information relates
- (iv) If you are carrying out law enforcement duties

For further information on law enforcement duties see 9 below.

3.4 Methods of compliance with collection procedures

As an alternative to individually advising people of the matters in 3.2.2, the following methods of providing that advice can be utilised:

- 3.4.1** By prominently displaying the following sign in places where Council is likely to collect personal information – eg. front counters, libraries, caravan parks, etc:

Any personal information that Council (operating activities eg. Library, caravan park etc) may collect from you may be recorded by Council and may be used by it for any of its lawful purposes. If Council does so, then you have a right to access and amend this information to ensure that it is correct.

- 3.4.2 By ensuring that the following information is on all forms that Council requests members of the public to complete:

PRIVACY AND PERSONAL INFORMATION PROTECTION NOTICE

Purpose of collection: As stated on the document and for the lawful purposes of Council

Intended recipients: Council's staff and

*Supply: Legally required: Yes/No
 Voluntary Yes/No Consequence of non-provision*

.....

Storage: Council Offices

You have a right to access and amend any of your personal information held by Council to ensure that it is correct.

- 3.4.3 If Council advertises or circulates any invitation to make submissions on any proposal, then the following should be included in the advertisement or letter:

Please note: When making written comments or submissions to Council the following information should be considered – should you have grounds for believing that disclosure of your name and address would result in detriment to you the words “Objection in Confidence” must be stated prominently at the top of the submission.

Council may however be obliged to release the full details of the submission including the name and address under the provisions of the Freedom of Information Act 1989 even if these words are used on the submission.

It is also possible for you to provide an anonymous submission but such submissions may be given less (or no) weight in the overall consideration of the matter.

4 STORAGE OF PERSONAL INFORMATION

4.1 How is personal information to be stored?

4.1.1 Information should be retained securely to prevent unauthorised use or disclosure. Council policy and procedure regarding IT security and records management generally provide guidance about the responsibility of members of staff to ensure appropriate security for council's systems and records.

4.1.2 If you take any files containing personal information away from the office, they should:

(a) not be left for any lengthy period in an unattended vehicle – and when they are they should preferably be placed in the boot and the vehicle locked, and

(b) be stored securely in your home in a location that is difficult for other family members or visitors to access.

- *For more information on the storage of personal information refer to Council's records' management/policy procedures.*

4.1.3 Information must be disposed of in accordance with the General Disposal Authority for Local Government Records.

4.1.4 Personal information relating to staff will be stored in a locked cabinet with restricted access.

5 ACCESS AND AMENDMENT TO A PERSONS OWN PERSONAL INFORMATION

5.1 WHAT IF SOMEONE WANTS TO ACCESS, OR TO CHANGE, PERSONAL INFORMATION ABOUT THEMSELVES THAT COUNCIL HAS IN ITS RECORDS SYSTEM?

5.1.1 If a member of the public wishes to access, or be advised of personal information concerning them that may be held by Council, then:-

- (a) if it is a simple request that can be satisfied by reference to a single file or entry in a register, then it may be made verbally and the response given on the spot and at no charge;
- (b) if it is a more complex request or if there is likely to be difficulty in locating the documents, then the applicant should be requested to complete a Document Access Request Form which will be processed in accordance with FOI Guidelines.

NOTE – if any person requests access to their personal information you should require some identification if they are not known to you. Identification should be via a drivers' licence or similar documentation.

5.1.2 Any person who is unhappy with the accuracy or use of their personal information kept by Council may, by writing to the General Manager, request that the information be amended. Council should comply with that request unless it has grounds for deciding that it will not amend the information, in which event it must attach the additional information so it can be read with the existing information and the individual notified. Grounds for refusing to amend records are set out in Section 44 of the FOI Act.

5.1.3 If Council agrees to change any personal information it holds, then it must also consider what steps (if any) it should take to notify recipients of that information of that change (s.15(3) PPIPA).

5.1.4 If a person considers that Council has:-

- (a) contravened a privacy principle;
- (b) contravened privacy Code of Conduct; or
- (c) unlawfully disclosed personal information kept in a public register then that person is entitled to apply to Council for an internal review.

NOTE: On receipt of a review request, a copy must be forwarded to the Privacy Commissioner and the Commissioner kept informed of progress and the outcome of the review.

5.1.5 See Appendix 5 for the procedure for an Internal Review.

Once in each year, Council will join with the other Hunter Councils to advertise jointly that they may hold personal information about individuals and advising of their rights to access and amend it. Councils will also include this information on their websites and on (or with) their rate notices. This is required in order to comply with s.13 PPIP Act.

5.2 WHAT IF SOMEONE ASKS COUNCIL TO REMOVE PERSONAL INFORMATION FROM A PUBLIC REGISTER?

5.2.1 For information on public registers, refer to 11 and Appendix 1.

If requested under s.58 PPIPA to remove personal information from any public register, Council will only do so if satisfied that:-

- (a) the safety or well-being of the person making the request will be affected if it does not do so; and
- (b) the individual interest in suppressing the information outweighs the public interest in maintaining public access to it.

5.2.2 Note s.739 LGA where a person can request, in certain circumstances, the suppression of their address in any document available for public inspection. This section applies to the suppression of information contained in council documents other than public registers.

5.2.3 PPIPA overrides the State Records Act in permitting the deletion or amendment of records in the circumstances outlined in 5 above (s.20(4) PPIPA).

6 USE OF PERSONAL INFORMATION

6.1 What Steps Must I Take to Ensure that Personal Information Council Holds is Accurate?

Before using any personal information, Council will take such steps as are reasonable in the circumstances to ensure that the information is accurate, up-to-date, relevant, complete and not misleading.

As a matter of practice, Council will rely on personal information it has received unless it has subsequently received information that may suggest, or the age of the information itself suggests, that the information is not accurate, up-to-date, relevant or complete or is misleading. However, when receiving personal information from another organisation, it may be appropriate to seek information from that organisation about their collection procedures. A list of questions that could be put to that organisation about this is in *Appendix 4*.

6.1.2. You can use any personal information that Council holds for any lawful internal purpose or activity of Council.

6.2 When can Personal Information be Disclosed?

6.2.1 You should NOT disclose any personal information to a member of the public except:

- (a) property information about immediate neighbours, including the names and addresses of the owners
- (b) information about a single property, including the name and address of the owner,
- (c) personal information contained in Public Registers – but note that there are restrictions on the release of personal information in bulk contained in these Registers (for a list of Council's Public Registers and for the restrictions on releasing information in them, see Appendix 1)
- (d) personal information contained on Development or Building Application files, unless that it is personal information relating to complainants (as opposed to objectors),
- (e) information contained in the Electoral Roll
- (f) information that is publicly available
- (g) if it is disclosed to the person to whom it relates

- (h) if the person to whom it relates consents to the disclosure (s.26(2) PPIPA Act)
- (i) if the disclosure is directly related to the purpose for which the information was collected and Council has no reason to believe that the individual concerned would object to the disclosure
- (j) if the person to whom the information relates knows or is reasonably likely to know that information of that kind is usually disclosed to that other person or body
- (k) if it is believed, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of any person
- (l) if non-compliance with this section is permitted or reasonably contemplated by any Act or law (s.25 PPIPA Act) – so Council cannot withhold personal information if it receives a subpoena or a Notice to Produce, or
- (m) if the information has been collected for the purpose of conferring on that person some form of personal recognition such as a prize or award
 - For further guidance on what personal information Council can release, see the flow chart attached as Appendix 7

6.2.2 While the situations described above will usually justify disclosure, there may be some rare and exceptional circumstances that may arise and which need consideration of the following factors:

- (a) it is not in the public interest to disclose it, or
- (b) it relates to a personnel matter concerning a particular individual, or
- (c) it relates to the personal hardship of any resident or ratepayer, or
- (d) the information relates to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious and imminent threat to the life or health of any person OR unless the disclosure is to Council's general or workers' compensation insurers or legal or medical advisors, or
- (e) the person's address has been suppressed under s.739 LGA, or

- (f) it may identify a person who has made a complaint to Council. *Note that Council has a policy of not releasing information that may identify a person who makes a complaint to Council*

6.2.3 Some practical guidelines:-

- (a) Council may give out information about any individual property to any person including the name of the registered proprietor, the address and the title details (provided this is not restricted via s.739 LGA – see 8.2). This information is publicly available. However, this information should not be given out in bulk form.
- (b) Council may supply any person information it holds to its legal representatives, its insurers (including its Workers Compensation insurers) or their legal representatives and to any investigators acting on behalf of this bodies. Council is required to provide this information for potential or commenced litigation (s.23(2) PPIPA) or under the Workers' Compensation legislation. Council should ensure that arrangements with agents of this kind incorporate terms and conditions that satisfy council obligations to protect personal information from unauthorised use or disclosure
- (c) Council will discuss and make available personnel and recruiting records to administrative staff when necessary without the prior approval of individuals. It will also make personal information available for personnel and recruitment enquiries to be made (i.e., for pre-employment screening of people working with children).
- (d) Council will continue to collect and deliver personal information to and from Government Departments involved in the normal functions of Council's operation.
- (e) Before making any personal information available to a private external body, Council should be satisfied that the information will not be used or disclosed inappropriately by that organisation. To this end, Council should ensure that there are suitable conditions in its agreements with its contractors and should require non-public sector organisations to agree in writing not to publicly release any personal information that may be supplied to it by Council.

- 6.2.4** When including personal information in a business paper, care should be taken to ensure that the information does not fall within one of the exemptions noted in 6.2.2.

7 COPYING OF PERSONAL INFORMATION

7.1 What if someone wants a copy of a document?

Generally speaking, a person has a right to a copy of any document that they have a right to inspect EXCEPT

- a** The Electoral Roll
- b** Resumes of candidates for election
- c** Building certificates (except for current owner or with the current owner's written consent)
- d** Documents subject to copyright

AND NOTE the restrictions on copying Public Registers

- *For further guidance, see s.12B LGA in Appendix 3*

8 LAW ENFORCEMENT EXEMPTIONS

8.1 If any officer of Council (e.g., Council's rangers or health and building inspectors) is engaged in law enforcement duties, they:-

- (a) can obtain personal information from any person about any person;
- (b) do not have to advise that personal information is being collected;
- (c) are not bound by the restrictions on use of information noted in '6.2.3'.

However, this will **only** apply when they are engaged in law enforcement duties, **not** when they are engaged in other duties.

9 WHAT IF PPIPA IS IN CONFLICT WITH ANOTHER ACT?

9.1 If there is any legislation that is in conflict with the Privacy and Personal Information Act, then that other legislation overrides PPIPA except in the case of access to personal information contained in a public register

10 WHAT IF I'M ASKED TO GIVE A REFERENCE FOR A CURRENT OR FORMER EMPLOYEE OF COUNCIL?

10.1 Without the consent of that employee, the only information you can supply is:-

- (a) to verify that the person does or has worked for Council;
- (b) the period of time that the person has worked for Council;

- (c) the position(s) occupied by that person; and
 - (d) if the request comes from another Council or a public sector agency, you can give an opinion about that person's suitability for employment.
- 10.2** Otherwise, you **cannot** give an opinion as to that person's suitability for a particular position unless you have that person's consent.

11 PUBLIC REGISTERS

11.1 Definition

These are defined in PPIPA as '*registers of personal information that are required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee)*'.

11.2 Access

Public Registers fall into two categories:-

- (a) Category A registers have restricted access
- (b) Category B registers have unrestricted access for inspection

Access to Category A registers is restricted to one page (or a single entry, if more than one page) unless the person wanting access first provides Council with a Statutory Declaration setting out their reason for wanting access and those reasons are for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.

Access to inspect Category B registers is unrestricted.

11.3 Definition

Copies of Category A registers can only be provided on the same basis as access. So if a person only has access to one page or entry then that is as much as they can copy.

Copying of Category B registers will depend on the relevant legislation. Refer to Appendix 1.

APPENDIX 1 PUBLIC REGISTERS	
Category A Registers Restricted Access	
RATES/PROPERTY	
Property Register (Rates Database)	<p>Ownership details can be released on an individual basis only. There is no need for a reason to be given for the request of this information. No release on bulk basis (see DLG Circular 00/75) however it has been determined that the following are consistent with the purposes of the PPIP Act. Release of bulk information is permissible to:-</p> <ul style="list-style-type: none"> • Electoral Commission (DLG letter 3/7/00) • Telecommunication carriers and other bodies required to discharge statutory obligations LGSA (WC 37/00 & WC 38/00) • Registered Valuers LGSA (WC 50/00)
Sales Data	<p>Sourced from LTO Public Register therefore can be released with/without names on individual basis only. No release on bulk basis except to:-</p> <ul style="list-style-type: none"> • Registered Valuers LGSA (WC 50/00)
DEVELOPMENT/BUILDING	
DA Register/Record of Approvals (cl. 264/265 EPA Regs)	<p>Public document available for inspection and copying under s.100 EPA Act but if they wish to inspect or copy more than one page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act.</p> <p>NOTE: Right to inspect does not extend to internal plans nor to commercial-in-confidence information.</p>
Construction Certificate Register (cl. 109B EPA Regs)	<p>Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act.</p>
Section 94 Contributions	<p>Public document available for inspection (see cl. 36, 37 EPA Regs) but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act.</p>

APPENDIX 1 PUBLIC REGISTERS

Category A Registers Restricted Access

REGULATORY

Register of POEO Act – Licences	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Impoundings	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Caravan Park Licences	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of On-Site Effluent Disposal	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Dog Registrations	This register is a sunset register and will cease to exist as a contemporary record on 1 September 2002. Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Leases of Community Land	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.

PUBLIC REGISTERS	
Category B Registers	
U n r e s t r i c t e d A c c e s s	
Air Cooling Towers Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Cemetery Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Contaminated Land Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Council Committee Register & 355 Membership	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Electoral Roll	Public document available for inspection only – no copies permitted. Any request for copies should be referred to the Electoral Office.
Investments Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Land Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Land Register (Community, Operational and Crown Land)	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Pecuniary Interest Register/ Disclosure of Interest s.449	Public document available for inspection and copying but if copies of more than one page is required then a statutory declaration is required stating the reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Policy Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Public Gates/Ramps Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Record of Approvals and Appeals	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Register of Delegations	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Roads Register	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.

OTHER DOCUMENTS AVAILABLE FOR PUBLIC INSPECTION	
Annual Financial Reports	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Annual Report	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Business Paper/Agenda for Council & Committee Meetings	Access available to the public BUT NOT INCLUDING business papers for matters considered when meeting is closed to the public. Copy fees may apply, refer Fees and Charges.
Code of Conduct	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Codes referred to in the Local Government Act	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Environmental Planning Instruments, Development Control Plans and Plans under Section 94AB of EPA Act	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Equal Employment Opportunity Management Plan	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Leases and Licences for use of public land classified as community land	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Local Approvals Policy	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Management Plan	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Minutes of Council & Committee Meetings	Access available to the public BUT NOT INCLUDING minutes of a meeting or any part of a meeting that is closed to the public other than the resolution. Copy fees may apply, refer Fees and Charges.
Plans of Land	Full unrestricted access available to the public. Copy

OTHER DOCUMENTS AVAILABLE FOR PUBLIC INSPECTION	
proposed to be compulsorily acquired by Council	fees may apply, refer Fees and Charges.
Plans of Management for Community Land	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Policy Documents under FOI	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Returns as to Candidates Campaign Donations	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
State of the Environment Report	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Statement of Affairs	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Subdivision Code	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Summary of Affairs	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.
Tree Preservation Orders	Full unrestricted access available to the public. Copy fees may apply, refer Fees and Charges.

APPENDIX 2 NON-PUBLIC REGISTERS	
REGULATORY	
Companion Animals Register	State record, not a Council record. Council must not release any information from it except in accordance with cl. 30 of the Companion Animals Regulations.
CORPORATE	
Employee Leave Register	Not a public document. Access only to employees and to persons or organisations who have a statutory right to inspect.
Employee Register	Not a public document. Access only to employees and to persons or organisations who have a statutory right to inspect.

OTHER DOCUMENTS NOT AVAILABLE FOR VIEWING BY THE PUBLIC	
Cheque Warrants	No public access.
Computerised Asset Database	No public access.
Creditors Masterfile	No public access.
Debtors Masterfile	No public access.
Drainage Assets	No public access.
EFT Register	No public access.
Insurance Claims	No public access.
Legal Documents (including Deeds)	No public access.
Receipt Book	No public access.
Remittance Register	No public access.
Roads & Bridges Defect	No public access.
Workers' Compensation Claims	Not a public document. Access only to employees and to persons or organisations who have a statutory right to inspect.

APPENDIX 3 ACCESS TO DOCUMENTS

Section 12(1) Local Government Act

By Section 12(1) LGA, Council is obliged to provide access to the following documents (this access must be given free of charge, although Council can charge for copies):-

- Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- Equal Employment Opportunity Management Plan
- Policy concerning the payment of expenses incurred by, and the provision of facilities to Councillors
- Land Register
- Register of Investments
- Returns of the Interest of Councillors, Designated Persons and Delegates
- Returns as to Candidates Campaign Donations
- Agendas and business papers for Council and Committee Meetings (but not including business papers for matters considered when part of a meeting is closed to the public)
- Minutes of Council and Committee Meetings, but restricted (in the case of any part of a meeting that is closed to the public), to the resolutions and recommendations of the meeting
- Any codes referred to in the LGA
- Register of Delegations
- Annual Reports of bodies exercising delegated Council functions
- Applications under Part 1 of Chapter 7 LGA for approval to erect a building and associated documents
- Development Applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents, but access should not be given to those parts of a development or building applications that consists of:-
 - (a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or
 - (b) commercial information, if the information would be likely:-
 - i) to prejudice the commercial position of the person who supplied it; or

ii) the reveal a trade secret.

- Local Policies adopted by Council concerning approvals and orders
- Records of approvals granted, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals
- Records of building certificates under the Environmental Planning and Assessment Act 1979
- Plans of Land proposed to be compulsorily acquired by the Council
- Leases and licences for use of public land classified as community land
- Plans of Management for Community Land
- Environmental Planning Instruments, Development Control Plans and plans made under Section 94AB of the Environmental Planning and Assessment Act 1979 applying to land within the Council's area
- Statement of Affairs, Summary of Affairs and Register of Policy documents required under the Freedom of Information Act 1989
- Departmental representatives' reports presented at a meeting of the Council in accordance with Section 433. However, despite this and other provisions of LGA, a person does not have the right to inspect so much of a development application, or an application under Part 1 of Chapter 7 LGA for approval to erect a building, as consists of:-

(a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected; or

(b) commercial information, if the information would be likely:-

- i) to prejudice the commercial position of the person who supplied it, or
- ii) to reveal a trade secret.

Section 12B – Copies of Documents

1. A right under this Act to inspect a document includes the right to take away a copy of the document.
2. Accordingly, a Council must have a copy of all relevant documents available for copying by, or on behalf of, any person who asks for one.
3. The copies may be taken away either free of charge or on payment of reasonable copying charges, as the Council chooses (except as otherwise specifically provided by or under this Act).
4. This section does not apply to the following:-
 - (a) the residential roll of electors referred to in Section 301(1);

- (b) the information sheets of candidates for election referred to in Section 308;
- (c) building certificates.

NOTE: Section 174(3) provides that a person may obtain a copy of a building certificate from the Council's record with the consent of the owner of the building (and on payment of the approved fee).

Section 12(6)

Section 12(6) also provides:-

The Council must allow inspection of its other documents free of charge unless, in the case of a particular document, it is satisfied that allowing inspection of the document would, on balance, be contrary to the public interest. However, this does not apply to any part of a document that deals with any of the following:

- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayer;
- (c) trade secrets;
- (d) a matter the disclosure of which would:-
 - i) constitute an offence against an Act; or
 - ii) found an action for breach of confidence.

Full access can also be provide to:-

- Policy Register
- Engineering Specifications for Development
- Local Approvals Policy
- Plans of Management for Community Land/Crown Reserves in the Shire
- Schedule of Fees and Charges
- Section 94 Plans
- State of the Environment Report
- Subdivision Code
- Tree Preservation Orders
- Delegations of Authority Register
- Annual Report
- Minute Book of Meetings of Council and its Committees
- Code of Conduct
- Annual Financial Statements of Accounts
- Auditor's Reports
- Returns of the Interests of Councillors, designated persons and delegates

- Register of Disclosures of Interest
- Management Plan (including Annual Estimates of Income and Expenditure)
- Equal Employment Opportunity Management Plan
- Code of Meeting Practice
- Corporate Plan
- Development Control Plans including Development Application Notification Policy
- On-site Sewerage Management Strategy

Copies of the Annual Report, the Agenda and Business Papers for Council meetings and the minutes of those meetings are available free of charge. All other copies may be subject to a fee.

4. LIST OF QUESTIONS FOR PRIVATE SECTOR ORGANISATIONS FROM WHICH COUNCIL REQUESTS OR RECEIVES PERSONAL INFORMATION

1. What is the source of the information?
2. Is the source reliable?
3. When was the information collected?
4. How was the information collected?
5. Which agency collected the information?
6. What checks were made at the time of collection to validate the information?
7. Has the information been subject to review since collection and, if so, when and how?
8. For what purpose was the information collected?

5. PROCEDURE FOR AN INTERNAL REVIEW

1. An application for an internal review must:-
 - (a) be in writing and addressed to the General Manager;
 - (b) set out details of the contravention or disclosure alleged;
 - (c) be lodged with Council within 6 months from the time the applicant first became aware of the contravention or disclosure.
2. The application will be dealt with by the General Manager who will consider any relevant material submitted by either the applicant or the Privacy Commissioner.
3. Upon receipt of the application, Council will notify the Privacy Commissioner of the application.
4. Council will keep the Privacy Commissioner informed of the progress of the review.
5. Council will complete the review as soon as reasonably practical in the circumstances but in any event within 60 days after receipt of the application for review.
6. Following completion of the review, Council may do one or more of the following:-
 - (a) take no further action on the matter;
 - (b) make a formal apology to the applicant;
 - (c) take appropriate remedial action;
 - (d) provide undertakings that the conduct will not occur again;
 - (e) implement administrative measures to ensure that the conduct will not occur again.
7. Within 14 days after completion of the review, Council will notify the applicant in writing of:-
 - (a) the findings and reasons for those findings;
 - (b) any proposed action to be taken by Council and the reasons for that action; and
 - (c) the right of the applicant to have Council's findings, and the proposed action, reviewed by the Administrative Decisions Tribunal.

8. Upon completion of the review, Council will inform the Privacy Commissioner of the findings of the review and the action proposed to be taken by Council in relation to the matter.

SAMPLE POLICY ON PERSONNEL FILES

Aim

The aims of this policy are to:

Establish guidelines for the storing and retrieving of employment-related information by authorised Council officers,

Restrict access to personal and employment-related information, and

Establish a current employee's right of access to their personal files.

Applicability

This policy applies to all employees.

Legislation

The Privacy and Personal Information Protection Act requires Council to ensure that personal information:

- a** is kept for no longer than is necessary for the purposes for which it may lawfully be used,
- b** is disposed of securely and in accordance with any requirements for the retention and disposal of personal information
- c** is protected by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse.

It further provides that Council must, if requested by an employee and without excessive delay or expense, give access to that employee to his/her personal file(s).

Basic information in personal files

A personnel file will be created for each employee. It will contain information relevant to the relationship between the Council and employee, including the following basic documentation:

- A** full name, address and private telephone number
- B** evidence of date of birth
- C** educational, professional or trade qualifications and certificates
- D** current employment classification and history
- E** employment offer(s) and acceptance(s)
- F** current position description
- G** emergency contact person
- H** copies of all official correspondence to and from the employee
- I** medical certificate(s) attesting to the employee's fitness for duty

- J details of training and development courses attended by the employee
- K details of employment history and salary history, and
- L performance appraisals, salary reviews and competency assessments.

Conditions of employee access

- Access by an employee to their personnel file is subject to the following:
 - A file will normally be available within 24 hours
 - A file may be viewed only in the presence of an authorised Council officer
 - Documentation must not be removed from the file
 - The employee may make hand written notes of the file's contents, and
 - The employee has a right to copies of any documentation in the file

If the employee is provided with copies of documents, this should be noted on the file, specifying which document(s) were copied and the date the document(s) were provided

Access by other employees

Only employees with genuine work-related reasons are allowed access to the personnel files of others. These employees may include:

- The member of staff (if any) responsible for personnel or workers' compensation matters
- The General Manager (to all personal files), and
- Managers (to the personal files of employees in their section)

Access by non-employees

Access to personnel files is not allowed to non-employees except:

- Duly appointed auditors
- Duly appointed representatives of the Council, including Council's legal representatives or those of its insurers
- Courts of law (on subpoena or notices of discovery)
- The Mayor or Deputy Mayor – in relation to the personal files of the General Manager, and
- An authorised officer of an industrial organisation (union) investigating an alleged breach for example of the award. In such cases, the employees' permission must be given and 48 hours notice is required.

Advice to staff

Whenever a document containing an adverse report or comment about an employee is attached to that employees' personnel file, then the person responsible for generating that document shall advise the employee and provide the employee with a copy of that document.

Secure file storage

Personnel files shall be kept in both electronic and hard copy form. In electronic form, access to the files shall be restricted to the employee whose file it is and to those employees noted under access by other employees above.

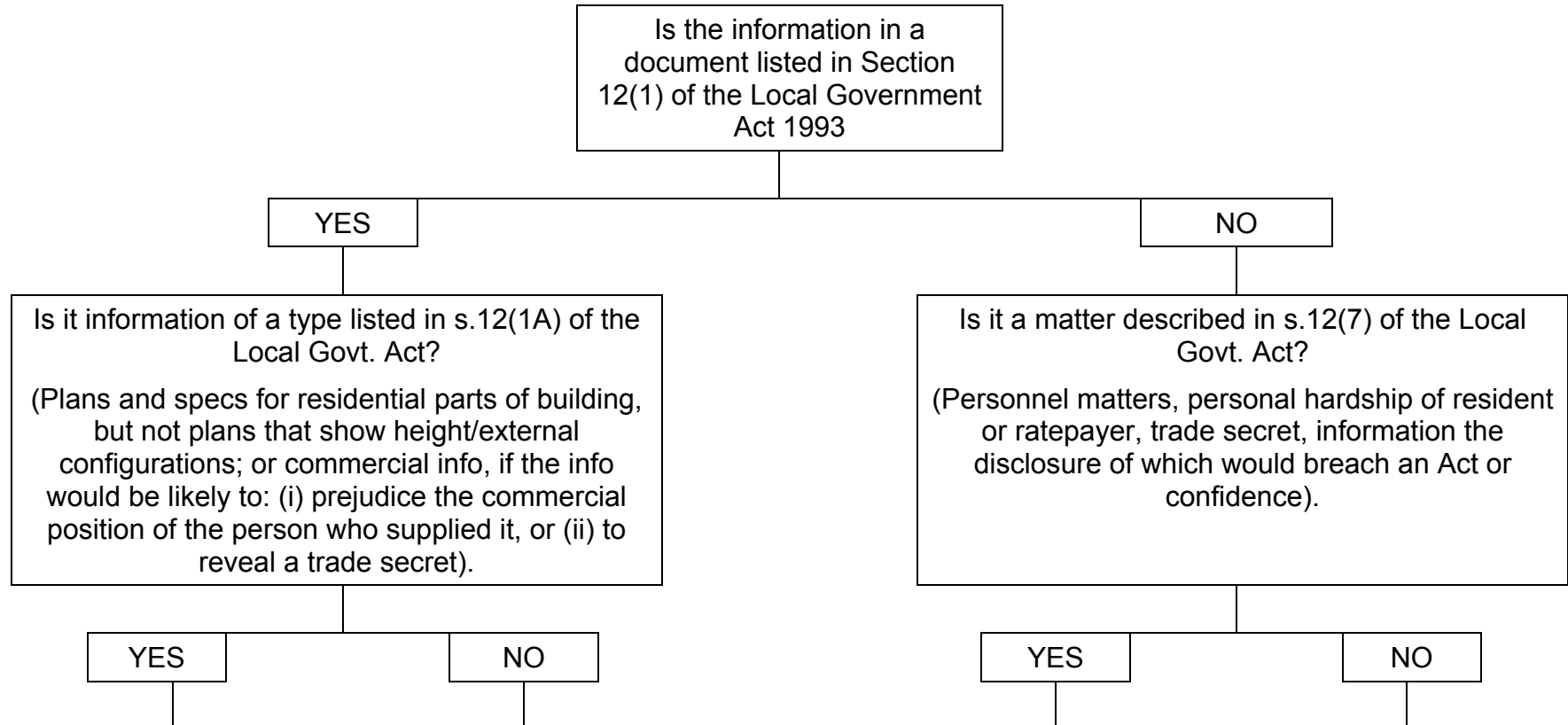
All hard copy files shall be kept in a locked cabinet during the period that the employee is employed by Council and for a period of 7 years after that employee has ceased to be employed by Council. Only those people noted under "Access by other employees" above shall have access to it.

Variation

The General Manager reserves the right to review, vary or revoke this policy in consultation with staff through the Consultative Committee.

7. ACCESS TO COUNCIL DOCUMENTS: CHART 1

Dealing with a request for information that is not “personal information”



No right of access under LGA. Council to provide reasons for refusal (s.12A LGA). Applicant could try FOI instead.

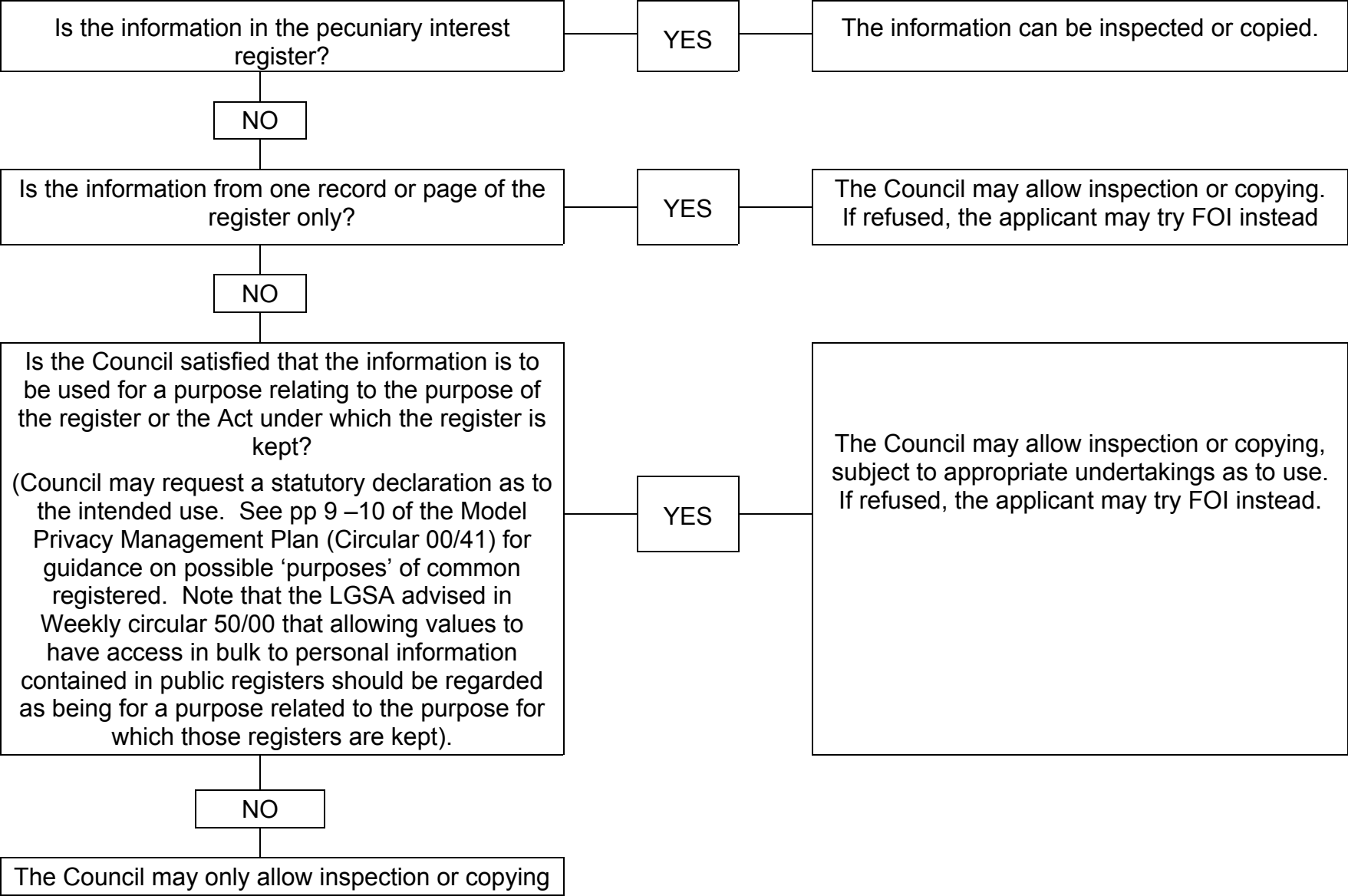
Everyone is entitled to inspect, free of charge. Copying of document allowed (reasonable charges can be set) except the residential roll, candidates' info sheets, and building certificates.

No right of access under LGA. Council to provide reasons for refusal (s.12A LGA). Applicant could try FOI instead.

Under s.12(6) LGA Council must now inspect unless contrary to public interest. See s.12(8) LGA and consider all relevant factors to determine 'public interest'.

8. ACCESS TO COUNCIL DOCUMENTS: CHART 2

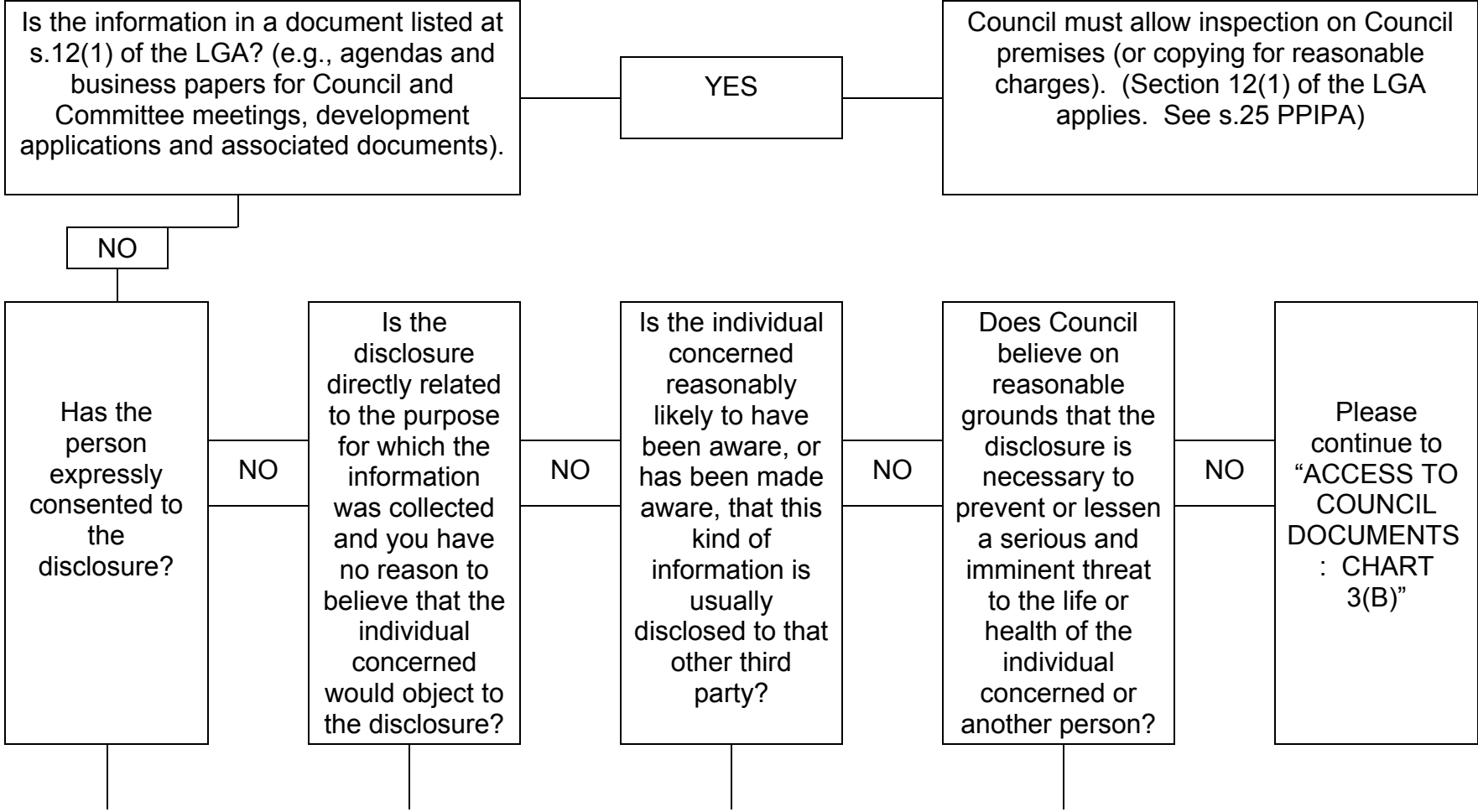
Dealing with a request for information that includes “personal information” and is held in a “public register”



if all personal information is first removed, other than the address of the property to which the information relates. If refused, the applicant may try FOI instead.

9. ACCESS TO COUNCIL DOCUMENTS: CHART 3(a)

Dealing with a request for information that is “personal information” but is not held in a “public register”



YES

YES

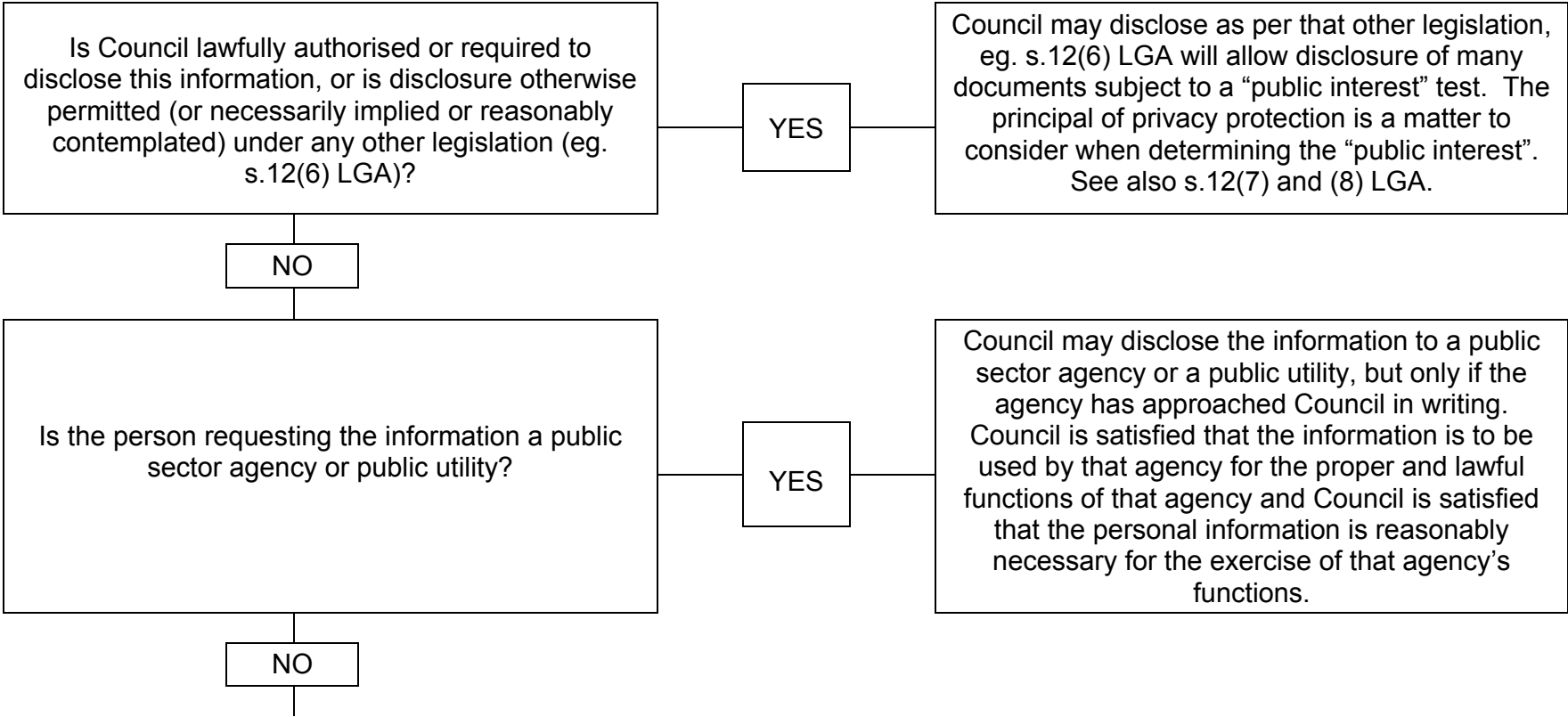
YES

YES

The Council may allow inspection or copying. If refused, try FOI instead.

ACCESS TO COUNCIL DOCUMENTS: CHART 3(b) cont. from 3(a)

Dealing with a request for information that is “personal information” but is not held in a “public register”



Check whether there are any other exemptions available – see PPIPA, the Privacy Code of Practice for Local Government , and the Model Privacy Management Plan for Local Government. For example in certain circumstances Council may disclose information for the purposes of: conferring upon the person an award, prize, benefit etc; answering a request from a potential employer; conducting an investigation, law enforcement; answering a subpoena, search warrant or other statutory instrument; or protecting the public revenue.