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Ombudsman Tasmania

Report after investigation pursuant to section 21 of the *Personal Information Protection Act 2004* – Hobart City Council

11 February 2025

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Complaint

1. On 15 December 2023 the complainant contacted my office to complain about the sharing of their personal information by Hobart City Council (Council) without their consent. The substance of the complaint was that Council had breached its obligations under the *Personal Information Protection Act 2004* (PIP Act), by disclosing the complainant's personal and sensitive information to parties within and outside Council.
2. The complainant is a Hobart City Councillor. The information alleged to have been disclosed was their personal information, including personal identifiers, which had been provided to Council for the purposes of making a private venue booking, and not connected with their elected position.
3. My office advised the complainant by email dated 18 December 2023 that they must first raise their complaint with Council in accordance with section 18 of the PIP Act. The complainant was informed if they remained unhappy with Council's response, they could then lodge a complaint with the Ombudsman.
4. The complainant formally lodged their complaint with Council. Council appropriately declined to investigate due to the nature of the allegations and the persons involved. On 16 February 2024 the complainant forwarded their complaint again to my office.

Summary of events

5. On 11 September 2023 the complainant submitted an online booking application form on Council's website. The booking request was for the Hobart Town Hall Ballroom (the venue) for the purpose of an invitation only 'community forum on women's rights and free speech'. In submitting the booking, the complainant agreed they had read and accepted the booking Terms and Conditions associated with it.
6. The complainant made the booking in their personal capacity by using their personal name without reference to their role as a Councillor, and used their private email address.
7. The online booking request was reviewed by Council's City Events Coordinator (Bookings Coordinator) that same day and the Bookings Coordinator informed their immediate supervisor (Creative City Manager (Manager)) and supervisor once-removed (Director, Connected City (Director)) of the complainant's request. This was in accordance with an informal internal booking procedure that required managerial oversight of Councillor bookings, even when booked in a personal capacity.
8. A booking request is automatically accepted if the venue is available. In this instance, the requested dates were not available, so the booking was not accepted. Council's Bookings Coordinator advised the complainant by email dated 13 September 2023 of alternative available dates.
9. Council has advised that usually, once a booking request is accepted, it is reviewed by the Bookings Coordinator and the booking is managed in accordance with the Venue booking terms and conditions provided by Council. At the time, there was no formal booking management procedure in place, but the process generally involved a risk assessment of the intended event.

10. For reasons outside the scope of this investigation, the complainant's attempts to book the venue were not successful. The complainant was informed that the venue was not available on each date that they requested. At no time did the complainant have an accepted booking request.
11. At a Council Executive Leadership Team (ELT) meeting on 28 September 2023, the Director disclosed to attendees information identifying the complainant and their attempt to book the venue for an event. In attendance at that meeting were Council's acting CEO (who attended remotely online), the Director of City Futures, Acting Director of City Life, Director of City Enablers, and Acting Head of Intergovernmental Relations and Partnerships. The disclosure was outside the formal business of the meeting and not recorded in the minutes.
12. It is the evidence of the Lord Mayor that in late September 2023, Council's Acting CEO disclosed to them information identifying the complainant and their attempt to book the venue for an event. This is disputed by the Acting CEO.
13. On 1 October 2023 the Director became Council's new Acting CEO.
14. On 20 October 2023 the complainant submitted a request for assessed disclosure of information under the *Right to Information Act 2009* (RTI Act) in relation to their attempted booking. There were issues with Council's response to that RTI request, which is outside the scope of this investigation.
15. In and around November 2023, the Director, who was acting as CEO of Council at that time, at a meeting between the CEO and Lord Mayor, also disclosed to the Lord Mayor information identifying the complainant and their attempt to book the venue for an event.
16. On 14 November 2023, the Lord Mayor contacted an outside person (a leader of a community activist group (spokesperson)), by way of text message, and disclosed to them information identifying the complainant and their attempt to book the venue for an event. The Lord Mayor suggested the spokesperson contact Council to discuss their concerns about the potential booking and provided them with the Acting CEO's contact details.
17. On 15 November 2023 the spokesperson contacted Council by email. Shortly thereafter, there was a phone conversation between the Director and the spokesperson, wherein the Director discussed the intended booking by the complainant.
18. Through the RTI process and more generally, the complainant became aware that knowledge of their attempts to book the venue had been shared within Council beyond what they expected or considered appropriate, without their knowledge or consent.
19. Through the RTI process and more generally, the complainant became aware that knowledge of their attempts to book the venue was shared by Council with others outside Council without their knowledge or consent.

Legislation

20. The relevant legislation in Tasmania is the PIP Act.

21. Schedule 1 of the PIP Act contains ten personal information Protection Principles (PIPPs) that a personal information custodian must comply with in accordance with section 17(1) of the PIP Act.

‘Personal Information Custodian’

22. Under the PIP Act the definition of *Personal Information Custodian* includes a public authority. A public authority has the same meaning as provided for in the *Right to Information Act 2009*. By definition, Council is a personal information custodian.

23. Council is a body corporate and acts through its employees, as well as people elected as Councillors.

24. When elected members act as or for Council their actions can be attributed to Council for the purposes of assessing compliance with the PIP Act. Relevantly here, the Lord Mayor, when acting in their capacity as Lord Mayor of Council, is considered part of Council as a personal information custodian and their actions are attributable to Council for the purposes of the PIP Act.

PIPPs

25. Relevant to this complaint are *PIPP-1 Collection*, *PIPP-2 Use and disclosure*, and *PIPP-4 Data security*.

26. *PIPP-1 Collection* provides:

1. Collection

(1) *A personal information custodian must not collect personal information unless the information is necessary for one or more of its functions or activities.*

(2) *A personal information custodian must collect personal information only by lawful means.*

(3) *Before collection, during collection or as soon as practicable after collection of personal information about an individual from the individual, the personal information custodian must take any reasonable steps necessary to ensure that the individual is aware of the following:*

(a) *its identity and how to contact it;*

(b) *the individual's right of access to the information;*

(c) *the purposes for which the information is collected;*

(d) *the intended recipients or class of recipients of the information;*

(e) *any law that requires the information to be collected;*

(f) *the main consequences for the individual if all or part of the information is not provided.*

(4) *If it is reasonable and practicable to do so, a personal information custodian must collect personal information about an individual only from that individual.*

(5) *If a personal information custodian collects personal information about an individual from someone else, it must take reasonable steps to ensure that the individual is made aware of the matters referred to in [subclause \(3\)](#) unless doing so would pose a serious threat to the life, safety, health or welfare of any individual.*

27. *PIPP-2 Use and Disclosure* relevantly provides:

2. Use and disclosure

(1) A personal information custodian must not use or disclose personal information about an individual for a purpose other than the purpose for which it was collected unless –

(a) both of the following apply:

(i) that purpose is related to the primary purpose and, if the personal information is sensitive information, that information is directly related to the primary purpose;

(ii) the individual would reasonably expect the personal information custodian to use or disclose the information for that purpose; or

(b) the individual has consented to the use or disclosure;

28. PIPP-4 Data security provides:

4. Data security

(1) A personal information custodian must take reasonable steps to protect the personal information it holds from misuse, loss, unauthorised access, modification or disclosure.

(2) A personal information custodian must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose.

(3) A personal information custodian, the records of which are subject to the [Archives Act 1983](#), must take the reasonable steps referred to in [subclause \(2\)](#) only with the approval of the State Archivist.

‘Personal Information’

29. Personal information is defined in section 3 of the PIP Act:

personal information means any information or opinion in any recorded format about an individual –

(a) whose identity is apparent or is reasonably ascertainable from the information or opinion; and

(b) who is alive or has not been dead for more than 25 years;

30. I am satisfied that the information provided by the complainant to Council on the online booking form, being their personal name and salutation, and private email address, was personal information for the purposes of the PIP Act.

31. While the complainant has a public presence as a Councillor with known political opinions and philosophical beliefs, this does not impact the protections provided under the PIP Act with regard to their personal information.

Investigation by Ombudsman

32. Under section 19 of the PIP Act, I conducted a preliminary assessment of the complaint in order to decide whether to deal with it. Following that assessment, I determined to deal with the complaint in accordance with sections 21 and 22 of the PIP Act.

33. If, on completion of an investigation of a complaint, I am of the opinion that a Personal Information Custodian has contravened a PIPP, I must advise the complainant and the personal information custodian in writing of that opinion and the reasons on which it is based, and make any recommendations considered appropriate. I must also provide the

Minister for Justice with a copy of the report and recommendations for tabling in both houses of Parliament.

34. I advised the complainant and Council by letters dated 10 May 2024 and 14 May 2024 respectively that I intended to carry out an investigation in relation to the alleged breach by Council of the PIPP Act.
35. In that letter I advised that I would investigate:
- a) what steps Council took when collecting the complainant's personal information to ensure they were aware of the purpose for which the information was collected and the intended recipients of that information (PIPP-1 (3)(c) and (d));
 - b) whether Council used or disclosed the complainant's personal information for a purpose other than the purpose it was collected for (PIPP-2 (1)), and how that occurred;
 - c) whether Council took reasonable steps to protect the personal information it held about the complainant from misuse, unauthorised access or disclosure (PIPP-4(1));
 - d) council's existing systems, policies and procedures, including its privacy policy, to determine how the disclosure of the complainant's personal information had been able to occur, and safeguard the likelihood of contraventions occurring in the future;
 - e) how information held by Council is protected from misuse, loss, unauthorised access, modification or disclosure; and
 - f) whether any changes are required to ensure Council's future adherence to the principles outlined in the Act and how these changes will be implemented, such as staff training, change in culture, updating of policies and procedures, as well as practical considerations such as physical documents or data security.
36. I have undertaken appropriate enquiries with Council and it has provided me with sufficient information to complete my investigation. This included my review of an independent forensic investigation report prepared for Council by Mr David Dilger of Edge Legal into the circumstances which gave rise to the alleged breach of the PIP Act, amongst other things.
37. A copy of my draft report was provided to Council, the Lord Mayor, Acting CEO and Director for their review and comment, in accordance with s23A of the *Ombudsman Act 1978*. I received representations from all parties, and have incorporated their submissions where relevant and necessary into my final report.

Compliance with Legislation

Compliance with PIPP-1 - Collection

38. In order to book a council venue, the complainant was required to complete an online 'venue booking application'. The online form required the complainant to provide their personal contact information, information about the event, and to agree to Council's booking Terms and Conditions. The application was successfully lodged by the complainant on 11 September 2023.
39. I am satisfied that by requiring the complainant to provide their personal information in the booking form, Council collected the complainant's personal information and became a *personal information custodian* of that information.

40. I am satisfied Council collected this personal information from the complainant in the exercise of one of its functions as a venue-for-hire business, and the information it collected from the complainant was necessary for this purpose.
41. On its website, Council has published its Privacy Statement, which informs the public that it *'retains, stores and uses personal information where it is necessary for one or more of our functions or activities'*. I am therefore satisfied that the complainant was aware, or should have been aware, that their personal information had been collected by Council for the purpose of managing their venue booking.
42. There is however no evidence to show that Council took steps to inform the complainant that it intended to share their personal information more broadly within Council and other than for the purpose of managing the venue booking, or that the complainant should have reasonably expected this to occur.
43. Accordingly, I am of the opinion that Council satisfied the requirements of PIPP-1 (1) and PIPP-1 (3)(c) and (d) to the extent that it collected the complainant's personal information for the purposes of managing that booking request, and no more.

Compliance with PIPP-2

Meaning of 'use' and 'disclosure'

44. The terms 'use' and 'disclose' are not defined in the PIP Act and there is minimal case law referencing the PIP Act in Tasmania. Guidance has therefore been taken from commentary and similar legislation in other Australian jurisdictions.
45. The Commonwealth *Privacy Act 1988* contains Australian Privacy Principle (APP) 6, which is almost identical to PIPP-2 in that an entity can only use or disclose personal information for a purpose for which it is collected. Like the Tasmanian PIP Act, the term 'use' is not defined in the Commonwealth Act, but the Office of the Australian Information Commissioner (OAIC) has drafted guidelines which includes guidance on the meaning of 'use'. It considers that an entity uses information where it 'handles or undertakes an activity with the information, within the entity's effective control'. One example the APP guidelines provide is the passing of personal information from one part of the entity to another.
46. The term 'disclosure' is explained in the APP Guidelines as meaning where an entity 'makes personal information accessible or visible to others outside the entity and releases the subsequent handling of the personal information from its effective control'. The focus is on the act done by the disclosing party, and not on the actions or knowledge of the recipient. The release can be a proactive release, a release in response to a specific request, an accidental release or an unauthorised release by an employee. One example the APP guidelines provide is an entity accidentally providing personal information to an unintended recipient.
47. I consider the terms 'use' and 'disclose' under PIPP-2 to have the same meaning as that provided by the APP guidelines. 'Use' encompasses information handling and management activities occurring *within* Council as the personal information custodian. 'Disclosure' refers to personal information being made visible and accessible to others outside Council and the release of that information from Council's effective control.

Actions of Council

The booking and ELT meeting

48. The evidence shows that the complainant's personal information was first shared by the Bookings Coordinator with their Manager upon receipt of the online venue booking application. The Manager then shared this information with their Director.
49. This sharing of information was in accordance with an informal protocol that required management to be informed of all communications with Councillors, even when acting in their personal capacity. The reasons provided for this protocol were varied, and included consistency of service delivery to Councillors, as well as costs charged to them for services. I am satisfied that as a Councillor, the complainant should have reasonably expected their information to be shared with Council's venue management team, both to facilitate the booking request, and to manage communications with them in accordance with Council procedures for Councillors.
50. I therefore consider the use of the complainant's personal information between the Bookings Coordinator, the Manager and the Director was reasonable and in accordance with the purpose for which it was collected.
51. The complainant's personal information was then shared by the Director with attendees at Council's ELT meeting on 28 September 2023 (ELT meeting). The information was shared by the Director as an aside to a discussion about another item on the meeting's agenda. The discussion regarding the complainant was not included in the minutes.
52. At the time of the ELT meeting the complainant did not have a confirmed booking with Council. Without a confirmed booking, no formal assessment had been made of the booking request by the venue management team in accordance with Council's internal procedures. Accordingly, and without mention of the subject in the agenda or minutes to provide context, I can see no business reason for the identity and details of the complainant's request to be raised by the Director at the ELT meeting at that time.
53. Apart from the Director, the attendees at the ELT meeting were not responsible for, or involved in, venue booking management for Council. I do not accept that the information provided by the Director to the ELT meeting was a use of the complainant's personal information for the purpose it was collected for, being to book a venue.
54. All the attendees at the ELT meeting were Council employees and formed part of Council as a personal information custodian. I am satisfied that the sharing of the complainant's personal information at the ELT meeting was not *disclosed* outside Council in breach of PIPP-2, because the information shared at that time remained with the same personal information custodian. I am satisfied however, that the evidence shows the complainant's personal information was *used* at the ELT meeting for a purpose other than the purpose for which it was collected.
55. Accordingly, I find that the disclosure by the Director to those in attendance at the ELT meeting was a breach of *PIPP-2 Use and Disclosure*. [Breach 1].
56. In its submissions to me in response to my draft report, Council advised that it believes that there are often occasions where it is appropriate and necessary for operational matters to be raised at ELT meetings and that there is significant benefit to Council in ensuring that

Directors have sufficient freedom to elevate matters to the ELT that they consider require an organisational awareness or consideration. Council is concerned that my breach finding may prevent sharing of information about an operational matter by a Director at an ELT meeting, thereby constraining Council's management processes, governance and decision making.

57. My finding of a breach at the ELT meeting concerned the identification of the complainant in circumstances where there was no justification under the PIP Act for doing so. No booking request had been accepted for consideration by the relevant team within Council. The matter not been listed as an agenda item for the ELT's consideration nor was any discussion recorded. No other evidence has been provided to support the view that the complainant's personal information was raised in order to facilitate the processing of their booking.
58. I do not consider my finding to impede the raising of any operational matters for consideration at an ELT meeting. It does however confirm that attendees at such meetings are not immune to the operation of the PIP Act and the protection of personal information in that forum.

September 2023 discussion

59. It is the Lord Mayor's evidence that in and around the end of September 2023 the acting CEO of Council shared details of the complainant's attempt to book the venue with the Lord Mayor, as a "throwaway line". This communication is denied by the then acting CEO.
60. The acting CEO in their submission to me advised they attended the ELT meeting remotely and did not participate in any discussions outside the formal business of the meeting, which they disconnected from as soon as the agenda was complete. The Acting CEO maintains they did not disclose any information relating to the complainant with the Lord Mayor.
61. Given the conflicting accounts of the Lord Mayor and acting CEO in September 2023 I am unable to make a determination as to whether a breach of the PIP Act by the acting CEO occurred in this instance. However, I am satisfied that if such a communication did in fact occur, it would amount to a use of the complainant's personal information by the acting CEO for a purpose other than the purpose for which it was collected in breach of *PIPP-2 Use and Disclosure*.

November 2023 discussion

62. It is agreed that the complainant's attempted booking was further discussed between the Director (acting as CEO from 1 October 2023) and Lord Mayor in and around November 2023. These discussions occurred as part of scheduled meetings between Council and the Lord Mayor.
63. The Lord Mayor was acting in their official capacity with Council when they received the information from the acting CEO. The Lord Mayor, when acting as Lord Mayor, is considered to be part of Council and included as part of Council as the Personal Information Custodian.
64. The Lord Mayor had no role in the venue booking process and had no reason to be informed of or be involved in such operational procedures. Particularly in circumstances where the complainant's personal information was shared without their booking request being first properly considered by Council in accordance with its booking procedures.
65. In their submissions, both the Lord Mayor and Director advised that the complainant's personal information was shared due to a number of complaints lodged with Council at that time by the complainant, and as part of discussions as to how Council was managing those complaints. The complaints related to Council's handling of the complainant's RTI requests,

which in turn concerned Council's management of the complainant's booking request. It was submitted by the Director that they disclosed the complainant's personal information to the Lord Mayor in order to seek advice on management of the complainant's concerns, given their position as a Councillor.

66. I am satisfied that the sharing of the complainant's personal information with the Lord Mayor by the acting CEO and Director was not *disclosed* outside Council in breach of PIPP-2, because the information shared at that time remained within the same personal information custodian.
67. I am satisfied the evidence shows the complainant's personal information was *used* by the Director in November 2023 for a purpose other than the purpose for which it was collected. However, under PIPP-2, a number of exceptions are made for the use and disclosure of personal information other than for its collected purpose. In this instance, it should have been reasonably expected by the complainant that their personal information would be shared within Council's executive team, including the Lord Mayor, as part of Council's management of their complaints. Accordingly, I am satisfied that no breach of the PIP Act occurred in this instance.

Actions of the Lord Mayor

68. The evidence shows that on 14 November 2023, the Lord Mayor sent text messages to an outside person (a leader of a community activist group (spokesperson)) and disclosed to them the complainant was attempting to book the venue. The Lord Mayor advised the spokesperson that the complainant was attempting to book the venue on behalf of a well-known political activist with opposing views to the spokesperson. The Lord Mayor suggested that the spokesperson contact Council and provided them with the CEO's contact details.
69. The Lord Mayor's texts clearly identified the complainant; personal information which had been disclosed to and collected by Council only for the intended purpose of a booking request. The complainant's personal information had been shared with the Lord Mayor in their capacity as Lord Mayor of Council, acting as part of Council as the personal information custodian. The Lord Mayor then disclosed that information to a person outside Council.
70. In their submissions, the Lord Mayor maintains that they did not knowingly release the complainant's personal information, or that they reasonably should have known or recognised that the information was personal. The Lord Mayor also submits that had they been informed that the information they had about the complainant's booking was inaccurate, they would not have shared that information.
71. The Lord Mayor obtained the information about the complainant's booking in the course of their official duties as Lord Mayor. There is no evidence submitted that shows they turned their mind to the confidentiality and privacy of that personal information, or its veracity, before sharing that information with the spokesperson.
72. Lack of knowledge of legislative obligations is not a reasonable excuse. There is nothing in the PIP Act that supports the position that lack of awareness as to the obligations under that Act is a valid defence to a breach. It is concerning that the Lord Mayor, whose role necessarily involves access to personal and sensitive information about members of the community on a regular basis, was not aware information they may receive in the course of their duties is subject to privacy considerations.
73. Similarly, finding out after the fact that the information shared was inaccurate or false is not a reasonable defence to the release of that information in the first place.

74. The Lord Mayor has also submitted that while they may have shared the complainant's personal information, it was for "lawful and legitimate purposes". These purposes were based on the Lord Mayor's own view that the complainant's booking request was discriminatory toward a particular community group, of which the spokesperson was a member. The Lord Mayor, based on the information obtained in their role with Council, decided to share that information with the activist group, in order to demonstrate their support of that group.
75. The PIP Act's purpose is to protect a person's personal information from unauthorised use by others. It recognises that personal information when collected by others can be used in ways that they do not agree to and by others for their own purposes. The sharing of the complainant's personal information by the Lord Mayor is an example of the type of disclosure the PIP Act is designed to protect against.
76. Under PIPP-2, a number of exceptions are made for the use and disclosure of personal information other than for its collected purpose. Disclosure based on differing views, opinions and beliefs is not one of those exceptions and is clearly contrary to the intent and purpose of the PIP Act to protect an individual's personal information held by personal information custodians.
77. Accordingly, I am satisfied the use and disclosure of the complainant's personal information by the Lord Mayor to the spokesperson was in breach of *PIPP-2 Use and Disclosure* [Breach 2].

Acting CEO discussion with spokesperson

78. The evidence shows that on 15 November 2023 the spokesperson contacted Council by email. Shortly thereafter, there was a phone conversation between the Director and the spokesperson, wherein the Director further discussed the intended booking by the complainant with them.
79. The discussion by the Director with the spokesperson involved identification and confirmation of the complainant's personal information to that spokesperson and is a further breach of *PIPP-2 Use and disclosure* [Breach 3].

Compliance with PIPP-4 – Data

Meaning of 'reasonable steps'

80. The phrase 'reasonable steps' is not defined in the PIP Act either. Nor is it defined in the Commonwealth *Privacy Act 1988*. However, PIPP-4 is almost identical to APP 11, and provides that a personal information custodian must take reasonable steps to protect the information it holds from misuse, loss, unauthorised access, modification or disclosure.
81. The APP guidelines provide that what is reasonable is a question of fact. It is an objective test that looks at what an entity, properly informed, would be expected to do in the circumstances. The reasonable steps that an entity must take depend on the circumstances of each case but would include consideration as to the sensitivity of the information, the possible adverse consequences in the event of a breach and the practical implications of implementing security measures.
82. The OIAC advises that reasonable steps should include implementing strategies in relation to the following:

- governance, culture and training;
- internal practices, procedures and systems;
- ICT security;
- access security;
- third party providers ;
- data breaches;
- physical security;
- destruction and de-identification; and
- standards

83. Following the APP guidelines, personal information is 'misused' if it is used by an entity for a purpose that is not permitted by the PIP Act. Similarly, 'unauthorised disclosure' occurs when an entity makes personal information accessible or visible to others outside the entity. It has already been established that the complainant's personal information was both misused and subject to unauthorised disclosure. The question remains, did Council nonetheless take *reasonable steps* to protect the information and prevent these breaches from happening.

84. At the time of the complainant's booking application, Council had in place a Privacy Policy which applied to all its employees and contractors. This policy was summarised into a Privacy Statement and made available for the public on its website.

85. Council's Privacy Policy and Privacy Statement provides its written commitment to upholding the PIP Act. In summary, it provides that Council:

- will take necessary steps to ensure personal information shared with it remains confidential, is stored safely, and used only for the purposes for which it is collected;
- has procedures in place to limit access to personal information to those with a business reason for knowing such information;
- will not reveal information to third parties outside of Council unless authorised to do so;
- staff are educated about the importance of confidentiality and privacy; and
- will take disciplinary action should staff not comply.

86. It is clear that Council did not, as warranted in its privacy policy and statement, ensure that the complainant's personal information was kept confidential, nor did it limit the access to that personal information to only those with a business reason for knowing that information. It also failed to prevent the use and disclosure of that information to third parties outside Council.

87. Council also had in operation at the relevant time a number of other policies which included references to its responsibilities under the PIP Act as a personal information custodian. These included:

Privileged Information – Use and Disclosure Policy
Confidential Information Policy.
Information Privacy Policy
Employee Code of Conduct
Elected Member Code of Conduct
Elected Member Behaviour Policy

88. Council's policies were all available on its intranet and each policy made it clear a breach may result in disciplinary action.

89. Despite the existence of these policies, the complainant's personal information was still used within Council and disclosed outside Council in breach of the PIP Act. Council does not dispute the above breaches occurred.
90. It is clear employees of Council involved in the booking process and beyond were not sufficiently aware of, or did not turn their minds to, their responsibilities under the PIP Act. Those employees, including senior staff and the Lord Mayor, were also not aware of or did not properly understand their obligations and responsibilities under Council's own policies and procedures in place at the time with respect to the use and disclosure of personal information.
91. It is particularly concerning that the breaches identified were made by senior members of Council staff and involved a person in the position of Acting CEO. They also involved a breach by the Lord Mayor, an elected member in a prominent and important statutory role.
92. This failure by senior members of staff and the Lord Mayor to turn their minds at all to the requirements of the PIP Act and Council's own extensive suite of policies and procedures, appears to indicate a serious governance, cultural and training issue within Council. There is a clear disconnect between Council's existing policies and the understanding of staff and elected members as to their responsibilities with respect to those policies and their obligations under the PIP Act.
93. It is clear that Council did not take the reasonable steps necessary to ensure that its own practices, policies and procedures were sufficiently known to staff, so that the personal information it collected from the complainant was protected. I find PIPP-4 to have been breached on this basis [Breach 4].

Conclusion

94. For the reasons outlined, I have determined:
- a) PIPP 1 was not contravened;
 - b) PIPP 2 was contravened (three separate breaches), by:
 - i) disclosure of the complainant's personal information by the Director to those in attendance at the ELT meeting on 28 September 2023;
 - ii) use and disclosure of the complainant's personal information by the Lord Mayor to the spokesperson on 14 November 2024;
 - iii) use and disclosure of the complainant's personal information by the Director to the spokesperson on 15 November 2024; and
 - c) PIPP 4 was contravened by Council failing to take reasonable steps to protect the complainant's personal information from misuse or disclosure.
95. In accordance with section 22 of the PIP Act, I have advised the complainant and Council in writing of that determination and the reasons on which it is based and make the recommendations referred to below.

Action taken by Council

96. This complaint identified a number of areas for improved practice, most particularly with respect to Council's governance, culture and staff training.

97. The Ombudsman acknowledges that Council, prior to this investigation, has undertaken steps to address the issues this matter identified, being:

- a) At a Special Council meeting on 3 July 2024, Council formally acknowledged and apologised to the complainant for sharing their personal information in breach of the PIP Act, among other matters. It has also provided the complainant with a written apology.
- b) As a result of its own investigations, Council has followed its employee code of conduct policy and other relevant policies, and has taken appropriate steps, including disciplinary action, in regard to the breaches of the PIP Act by its employees.
- c) Council has informed the Ombudsman that it is currently in the process of reviewing its induction program, with a trial to be delivered to new employees. Following the trial, the program will be made available to all employees as a refresher and to all new employees. The induction program includes training on the protection of personal information and the operation of the PIP Act.
- d) Council has permanently filled the CEO position.

98. I make the following recommendations:

- Recommendation 1 :** Council as a matter of priority requires and ensures that all management staff and elected members, including the Lord Mayor, undergo mandatory training on their obligations to protect personal information under the PIP Act, and on Council's policies and procedures outlining those responsibilities and the disciplinary action to be taken in light of any breach.
- Recommendation 2 :** Council reviews its periodic education and training requirements for all staff, and implements regular and periodic mandatory refresher training for all staff and elected members on its privacy obligations under the PIP Act.

A copy of this report will be provided to the Minister for Justice for tabling in Parliament pursuant to section 22(3) of the PIP Act.



Richard Connock

Ombudsman

