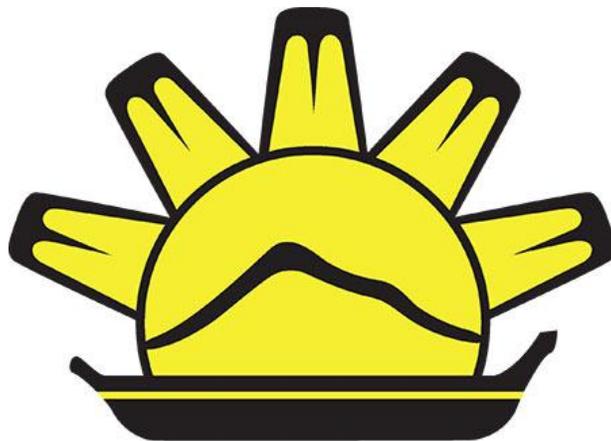


Statement of Policy and Procedure	
BCR #	2017-076
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Malahat Nation

Information Privacy Policy

Approved by Council on February 2, 2017



Malahat

1. Policy

Ensuring the privacy of personal information provided to Malahat Nation by individuals is essential to not only ensure compliance with legislative requirements such as those outlined in the *Personal Information Protection and Electronic Documents Act* or substantially similar provincial legislation, but also to ensure continued stakeholder confidence in Malahat Nation and that accountability is maintained.

2. Purpose

The purpose of this policy is to provide guidance on the implementation and maintenance of appropriate information privacy practices within Malahat Nation related to the collection, use, disclosure, retention, and safeguarding of personal information.

3. Scope

This policy applies to all Council members, members of the Finance and Audit Committee, officers and employees of Malahat Nation and any contractors or volunteers performing services on behalf of the Council. The direction provided in this policy applies to all personal information created and acquired by Malahat Nation regardless of format (i.e., both electronic and hardcopy paper records).

4. Definitions

“personal information” refers to all information that reveals factual or subjective elements of knowledge about an identifiable individual. In addition to the basic elements that are commonly used to identify and interact with an individual - such as the individual’s name, gender, physical characteristics, address, contact information and identification and file numbers - it also includes criminal, medical, financial, family and educational history as well as evaluative information and other details of the individual’s life.

“privacy protection” refers to the decisions made Malahat Nation in regards to the acceptable ways to collect, create, use, share/disclose, retain, protect and dispose of the personal information that it needs for its administrative and operational needs.

5. Responsibilities

(1) Council is responsible for:

- (a) Establishing and implementing documented procedures for privacy and the management of personal information within Malahat Nation;

(2) The Chief Executive Officer is responsible for:

- (a) Ensuring compliance with the established information privacy policy.
- (b) Developing and maintaining standards, policies and procedures that support the objectives of Malahat Nation's privacy program;
- (c) Ensuring that all the activities of Malahat Nation are conducted in compliance with the established privacy standards, policies and procedures and in accordance with the generally accepted privacy principles. For this, the Privacy Officer will:
 - i. Provide training and awareness on privacy protection.
 - ii. Ensure that community members are aware of their rights as they relate to privacy, including their right of access to, and the right to request the correction of, all the personal information which is kept about them by Malahat Nation.
 - iii. Act as an expert resource on privacy matters within Malahat Nation.
 - iv. Conduct periodic reviews of Malahat Nation's activities that involve the collection, use, disclosure, retention, and safeguarding of personal information.
- (d) Investigating all complaints regarding the collection/creation, accuracy, use, sharing/disclosure, protection, retention and destruction of personal information and reporting the results to the appropriate managers and, where warranted, to Council;
- (e) Recommending changes to policies, procedures and practices in response to the issues raised in the complaints; and
- (f) Responding in writing to the requests for access to, and correction of personal information submitted by employees and community members within thirty calendar days from the date of the receipt.

(3) Employees, contractors and volunteers are responsible for:

- (a) Complying with the established information privacy policy.
- (b) Immediately reporting to their supervisor privacy breaches of which they become aware.

6. Procedures

Accountability

(1) Malahat Nation is responsible for personal information in its possession or custody.

Identifying Purpose

(1) The purposes for the collection of personal information should be communicated to individuals at or before the time of collection. Depending upon the way in which the information is collected, this can be done verbally or in writing. An application form, for example, may give notice of the purposes.

Consent

- (1) With limited exceptions, Malahat Nation must obtain consent from an individual before collecting their personal information. Personal information can be collected, used, or disclosed without the knowledge and consent of the individual in only limited circumstances. For example, legal or security reasons may make it impossible or impractical to seek consent. When information is being collected for the detection and prevention of fraud or for law enforcement, seeking the consent of the individual might defeat the purpose of collecting the information. Consent may be sought from an individual's authorized representative in certain cases, for example, when an individual is seriously ill, mentally incapacitated, a minor, or has died.
- (2) Individuals can give consent in many ways. For example:
 - (a) a form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and the specified uses;
 - (b) consent may be given verbally; or,
 - (c) consent may be given through electronic means.

An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice.

Limiting Collection

- (1) Malahat Nation cannot collect personal information indiscriminately. Both the amount and the type of information collected must be limited to that which is necessary to fulfill the purposes identified.

Limiting Use, Disclosure and Retention

- (1) Malahat Nation may only use or disclose personal information for the purpose for which it was collected, unless:
 - (a) The use or disclosure of the personal information is consistent with the original collection of the personal information;
 - (b) The consent of the individual is obtained; or,
 - (c) It is for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information.
- (2) Personal information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous in accordance with Malahat Nation's retention and disposition schedule.

Accuracy

- (1) Malahat Nation shall take all reasonable steps to ensure that personal information that is used to make a decision on an individual is as accurate, up-to-date and complete as possible.

Safeguards

- (1) Personal information should be protected with appropriate safeguards to ensure only those with a need to know will have access to the records:
- (2) For electronic records containing personal information, the records should be protected. For hardcopy paper-based records, containing personal information, the records should be stored in secure filing cabinets at all times unless being used.
- (3) Care must be used in the disposal or destruction of personal information, to prevent unauthorized parties from gaining access to the information.

Openness

- (1) Malahat Nation must be open about its policies and practices with respect to the management of personal information. Individuals will be able to acquire information about its policies and practices.

Individual Access

- (1) The identity of an individual must be authenticated before discussing their personal information with them.
- (2) When requested, Malahat Nation must provide an individual with access to their personal information within a reasonable time and at minimal or no cost to the individual.
- (3) Individuals who are given access to their personal information may:
 - (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (4) In certain situations, Malahat Nation may not be able to provide access to all the personal information it holds about an individual. The reasons for denying access will be provided to the individual upon request. Exceptions may include information that:
 - (a) is prohibitively costly to provide;
 - (b) contains references to other individuals;
 - (c) cannot be disclosed for legal, security, or commercial proprietary reasons; or,
 - (d) is subject to solicitor-client or litigation privilege.

Challenging Compliance

- (1) Malahat Nation will investigate all complaints. If a complaint is found to be justified, Malahat Nation will take appropriate measures, including, if necessary, amending its policies and practices.

7. References and Related Authorities

- (2) FMB's Financial Management System Standards
 - (a) Standard 12.6 Human Resource records
 - (b) Standard 19.0 Risk Management
 - (c) Standard 23.0 Records and Information
- (3) FMB's Financial Administration Law Standards
 - (a) Standard 21.0 Records and Information

8. Attachments

None