

## COUNCIL POLICY



<b>TITLE:</b>	PRIVACY POLICY
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<b>DEPARTMENT:</b>	CORPORATE GOVERNANCE
<b>UNIT:</b>	CORPORATE SERVICES
<b>AUTHOR:</b>	Greg Burgoyne, Group Manager Corporate Services <i>The Author is responsible for implementing and reviewing the document.</i>
<b>RESPONSIBLE OFFICER:</b>	Greg Burgoyne, Group Manager – Corporate Services Checked Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>APPROVED BY:</b>	Council
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<b>EXPIRY DATE:</b>	Not applicable
<b>REVIEW DATE:</b>	1/7/2016 <i>This policy will be reviewed and amended in accordance with any legislative or council changes and/or requirements.</i>

<b>AVAILABILITY:</b>	Staff – Unit only	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Staff – Department only	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Staff – Organisation wide	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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<b>ADVISE AVAILABILITY:</b>	Media Release	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Sou Wester (Author to prepare article)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Email designated Groups & Staff	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

<b>REFERENCES:</b>	<ul style="list-style-type: none"> <li>• Glenelg Shire Council Local Government Privacy Guide</li> <li>• Local Government Act 1989</li> <li>• Privacy and Data Protection Act 2014</li> <li>• Health Records Act 2001</li> <li>• Freedom of Information Act 1982</li> <li>• Public Records Act 1973</li> <li>• Charter of Human Rights and Responsibilities Act 2006</li> <li>• Privacy Act 1988 – Commonwealth Government legislation that operates alongside State or Territory Acts</li> </ul>
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## 1. Purpose

This Privacy Policy explains how the Glenelg Shire will collect, hold, use and disclose personal and health information of individuals, how individuals can gain access to their information, and correct inaccuracies, and how an individual may complain about possible breaches of privacy.

## 2. Scope

With the enactment of the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* (both Victorian legislation), Victorian councils are required to comply with the privacy principles set out in the two Acts and adopt policies on the management and handling of personal and health information of individuals.

The Glenelg Shire Council is committed to protecting individual's right to privacy and the responsible and fair handling of personal and health information, consistent with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*. Accordingly, Council will adhere to the Information Privacy and Health Privacy Principles when undertaking its statutory functions and activities, so that the privacy of individuals can be protected.

## 3. Definitions

### 3.1 Health Information

Means information or opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual, but does not include information about an individual who has been deceased for more than 30 years.

### 3.2 Information Privacy Principles (IPPs)

Means a set of principles that regulate the handling of personal information.

### 3.3 Personal Information

Means information or opinion, whether true or not and whether recorded in material form or not, about a living individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

### 3.4 Primary Purpose

Means a purpose that is strictly necessary to discharge the function or to undertake the activity.

### **3. Definitions** (Continued)

#### **3.5 Public Registers**

Means the documents that:

- Are open to inspection by members of the public.
- Contain information required or permitted by legislation.
- Contain personal information, unless generally available publicly.

#### **3.6 Secondary Purposes**

Means purposes for the use and disclosure which must be related to the primary purpose and to what the individual whose personal information is involved would reasonably expect. If secondary purposes are known in advance, they should be explained to the individual.

#### **3.7 Sensitive Information**

Means information or opinion about an individual's ethnic origins, religious beliefs, political opinions or association, philosophical beliefs, membership of professional association or trade union, sexual preferences or practices and criminal record.

#### **3.8 Unique Identifier**

Means an identifier (usually a number) assigned by an organisation to an individual uniquely to identify that individual for the purposes of the operations of the organisation but does not include an identifier that consists only of the individual's name.

### **4. Council Policy Initiatives/Actions**

#### **4.1 Personal Information**

As part of the services provided to the community, the Glenelg Shire may hold personal information that is necessary for its function and activities. For example:

- Name, address, property, bank account and other financial details of ratepayers for undertaking its rating and valuation services, town planning and building statutory functions and other property related services and enforcement activities.
- Name, address and contact details of individuals who contact the Glenelg Shire with respect to requests or complaints related to Council services.

#### **4. Council Policy Initiatives/Actions**

(Continued)

##### **4.1 Personal Information**

(Continued)

- Age, physical disabilities, health related and other sensitive information of individuals receiving Council services related to Child Care, Maternal and Child Health, Pre-school, Youth, Leisure and Aged Care.
- Personal information of employees and contract service providers, relevant to their employment or contract with the Council.

##### **4.2 Collection**

The Glenelg Shire will collect personal information lawfully and fairly, in a number of ways, including:

- Directly from the individual via an application form or correspondence or in response to a request from the Glenelg Shire.
- From third parties, such as contracted service providers, health service providers or the individual's authorised representatives or legal advisers.
- From publicly available sources of information.
- When legally required to do so.
- Far as it is practicable to do so, the Glenelg Shire will collect personal information about an individual directly from that individual. It will also inform the individual of the purposes for which the information is collected, whom it will be disclosed to and how he/she is able to gain access to the information.

The Glenelg Shire will not collect sensitive or health related information unless:

- The individual has consented.
- It is required by law.
- It is necessary to prevent or lessen a serious and imminent threat to the life, health or safety of an individual or the public.
- It is necessary for the establishment, exercise or defence of a legal claim.
- It is necessary for research, compilation and analysis of statistics relevant to government funded community programs.

#### **4. Council Policy Initiatives/Actions**

(Continued)

##### **4.2 Collection**

(Continued)

The Glenelg Shire will take reasonable steps to retain the confidentiality of any personal information given in confidence about an individual, by another person or a health service provider, in relation to the provision of care or health services to the individual.

Upon collection the Glenelg Shire will inform the individual:

- Why the information is being collected.
- To whom the information may be disclosed and why.
- Any law that requires the Glenelg Shire to collect the information.
- The consequences for the individual if all or part of the information is not collected.
- The fact that he/she is able to gain access to the information.

If the Glenelg Shire collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is made aware of it.

The Glenelg Shire will collect personal information about a child under the age of 18, only with the consent of the child's parent or guardian.

However, in certain circumstances the Glenelg Shire may exercise discretion in obtaining parental/guardian consent for the collection of young person's information where parental/guardian involvement may hinder the delivery of services to a young person.

##### **4.3 Use and Disclosure**

The Glenelg Shire Council will only use personal information for the primary purpose for which it was collected (for example, levying rates, billing, collection of debts, property valuation, town planning and building approvals, provision of family services, community services and waste management services, enforcement activities and asset management) and any related purpose the individual would reasonably expect the Glenelg Shire to use or disclose the information to, or where the individual has consented to the use or disclosure.

#### 4. Council Policy Initiatives/Actions

(Continued)

##### 4.3 Use and Disclosure

(Continued)

The information may be disclosed:

- To contracted service providers who manage the services provided by Council, including Waste collection, Meals preparation for Aged Care Services, Management of Leisure Centres, Management of Pre-schools, Environmental health inspections and Infrastructure maintenance.

The Glenelg Shire will also require these service providers to maintain the confidentiality of the information and to comply with the privacy principles in all respects.

- Where appropriate under another Act, including *Freedom of Information Act 1982*.
- In public registers that need to be maintained in accordance with other Acts, as a release of information relevant for the purpose for which the registers exist.
- To an individual's authorised representatives, health service providers or legal advisors.
- To Council's professional advisers, including accountants, auditors and lawyers.
- To organisations assisting the Glenelg Shire to perform statistical analyses for improving the services being delivered to the community. However, where practicable and reasonable, steps will be taken to de-identify the information.
- To government agencies and other organisations, with specific consent of the individual, or where required or authorised by law, which may include emergency situations and assisting law enforcement agencies and activities.
- To an immediate family member of the individual, for emergency reasons or if it necessary to provide the appropriate care or health service to the individual.
- To any recipient outside Victoria, only if they are governed by substantially similar privacy principles or the individual has consented to the transfer, or would be likely to give it, if it was practicable to obtain that consent.

#### 4. Council Policy Initiatives/Actions (Continued)

##### 4.4 Quality and Security

- Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that the information is relevant and to the extent necessary, accurate, complete and up-to-date for the purpose for which it is to be used.
- The Glenelg Shire will endeavour to maintain a secure system for storing personal information and will utilise appropriate technologies, security methods, operational policies and procedures to protect the information from unauthorised access, improper use, alteration, unlawful or accidental destruction and accidental loss.
- All personal and health information will be removed from Council systems, if it is no longer needed for any purpose, except where it needs to be retained in accordance with the *Health Records Act 2001* and the *Public Records Act 1973*.

##### 4.5 Access and Correction

- The Glenelg Shire will provide individuals with access to their personal and health information on written request to the Privacy Officer, except in specific circumstances as outlined within the Acts and the *Freedom of Information Act 1982*.
- The Glenelg Shire may charge an access fee for recovering the costs of retrieving the required personal information.
- If an individual is able to establish that the personal information is inaccurate, incomplete or out-of-date, the Glenelg Shire will take reasonable steps to correct the information.
- If access or correction of the personal or health information needs to be denied, as required by law or relates to legal proceedings, or the release would pose a serious threat to the life or health of any person, or is classified as confidential information, the Glenelg Shire will give the individual the reasons for that decision as soon as practicable, but no later than 45 days after receiving the request.
- In the event that the Glenelg Shire and an individual disagree about the veracity of the personal or health information held by the Glenelg Shire, the Glenelg Shire will take reasonable steps to record a statement relating to the disputed information, if requested by the individual.

#### 4. Council Policy Initiatives/Actions (Continued)

##### 4.6 Identifiers and Anonymity

- The Glenelg Shire will not adopt as its own identifier, an identifier that has been assigned by another government agency.
- The Glenelg Shire will not use or disclose the identifier assigned to an individual by another government agency, unless the consent of the individual has been obtained or it is required by law to do so.
- Whenever it is lawful and practicable, individuals may exercise the option of not identifying themselves when supplying information or entering into transactions with the Glenelg Shire.

##### 4.7 Complaints

An individual may lodge a complaint with the Council's Privacy Officer regarding the handling of personal and health information. The Privacy Officer will investigate the complaint as soon as possible and provide a response within seven working days where practicable. Such response may be provisional in nature if time is insufficient to give a full reply.

Alternatively, individuals may lodge a complaint about a Council act or practice that may be an interference with their privacy, with the:

- Office of the Victorian Privacy Commissioner for personal information; or the
- Health Services Commissioner for health information;

However, the Commissioners may decline to entertain the complaint, if the complainant has not first complained to the Council.

##### 4.8 Future Changes

The Council may make amendments to this policy from time to time, to reflect technological changes, legislative amendments and community feedback or any other relevant matter.

##### 4.9 Further Information

Copies of this policy will be readily available from all Council offices and the Glenelg Shire's website [www.glenelg.vic.gov.au](http://www.glenelg.vic.gov.au). Further information can be obtained from Council's Privacy Officer.