

COUNCIL POLICY



TITLE:	PRIVACY POLICY
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DEPARTMENT:	Corporate Services
UNIT:	Corporate Services
RESPONSIBLE OFFICER:	David Hol, Director Corporate Services

ADOPTED DATE AND BY WHOM:	25 May 2021, Council Meeting
EXPIRY DATE:	25 March 2023
REVIEW DATE:	25 May 2023 (The Victorian Information Commissioner recommends review every two years) <i>Policies are generally reviewed every four years or as required by any legislative or council changes.</i>

AVAILABILITY:	Organisation wide	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Internet	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
ADVISE AVAILABILITY:	Media Release	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Sou Wester (Responsible Officer to prepare article)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

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1. References (if applicable)

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001 (DocSetID: 1933907)

Organisational Policy – CCTV Policy (DocSetID: TBC in development)

Privacy and Data Protection Act 2014

Local Government Act 2020

Privacy Act 1988 – Commonwealth Government legislation that operates alongside State and Territory Acts

Health Records Act 2001

Freedom of Information Act 1982

Public Records Act 1973

Charter of Human Rights and Responsibilities Act 2006

2. Purpose

This Privacy Policy provides guidance and advice on the way in which Council collects, holds, uses and discloses personal and health information of individuals. The Policy details how individuals can request access to their information, and also outlines the privacy complaint process.

3. Scope

In accordance with 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.

4. Definitions

Health Information

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.

Health Privacy Principles; and Information Privacy Principles

A set of principles set out in Schedule 1 of the *Privacy and Data Protection Act 2014* and the

Health Records Act 2001 respectively that regulate the handling of personal information.

Personal Information

Information or opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion, but does not include information of a kind to which the *Health Records Act 2001* applies.

Primary Purpose

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

Public Registers

Documents that Councils are required to make publicly available in accordance with Victorian Legislation. These registers:

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

Secondary Purposes

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.

Sensitive Information

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

Unique Identifier

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 and does not include an identifier within the meaning of the *Health Records Act 2001*.

5. Council Policy

To ensure the privacy of individuals is protected, the Glenelg Shire will adhere to the Information Privacy Principles (IPPs) and Health Privacy Principles (HPPs) contained in Schedule 1 of the *Privacy Data Protection Act 2014* and the *Health Records Act 2001* respectively.

The 10 IPPs contained in the <i>Privacy and Data Protection Act 2014</i> are listed below:	The 11 HPPs in the <i>Health Records Act 2001</i> are listed below:
Principle 1 - Collection	Principle 1 - Collection
Principle 2 – Use and Disclosure	Principle 2 – Use and Disclosure
Principle 3 – Data Quality	Principle 3 – Data Quality
Principle 4 – Data Security	Principle 4 – Data Security and Data Retention
Principle 5 – Openness	Principle 5 – Openness
Principle 6 – Access and Correction	Principle 6 – Access and Correction
Principle 7 – Unique Identifiers	Principle 7 – Identifiers
Principle 8 – Anonymity	Principle 8 – Anonymity
Principle 9 – Transborder Data Flows	Principle 9 – Transborder Data Flows
Principle 10 – Sensitive Information	Principle 10 - Transfer or closure of the practice of a health service provider
	Principle 11 – Making information available to another health service provider

5.1 PRINCIPLE 1 – Collection

The Glenelg Shire will only collect personal or health information that is necessary for its specific and legitimate functions and activities.

The personal information collected by the Glenelg Shire typically includes, but is not limited to, the following types of information:

- Name, address (postal and email), date of birth, 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.
- 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.

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.
- 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.

Collection Notice/Privacy Statement

All areas of the Glenelg Shire that collect personal or health information will prepare a Collection Notice to state how the information is intended to be used, shared and disclosed. This notice could be provided in a form similar to below:

'The personal information requested on this form is being collected by the Glenelg Shire Council for municipal purposes as specified in the Local Government Act 2020. The Council will use this information only for the specific purpose of collection or for directly related purposes. The information will not be disclosed except as required or specifically authorised by law.'

You may request access to any personal information that Council may have collected about you. Also, you may request correction of your personal information if you can establish that it is not accurate or complete. Such requests should be directed to Council's Privacy Officer on telephone 03 5522 2305'.

5.2 PRINCIPLE 2 - Use and Disclosure

The Glenelg Shire Council will only use personal or health information for the primary purpose for which it was collected or in accordance with the *Privacy and Data Protection Act 2014 or Health Records Act 2001* (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.

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.

5.3 PRINCIPLE 3 – Data Quality

The Glenelg Shire will take reasonable steps to ensure that the personal information it collects, uses or discloses is 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*.

5.4 PRINCIPLE 4 – Data Security

The Glenelg Shire will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.

The Glenelg Shire will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose, subject to the compliance with the *Public Records Act 1973*, the *Health Records Act 2001* and any other applicable law.

5.5 PRINCIPLE 5 – Openness

Council will make publicly available its policies relating to the management of personal or health information. Council will on request, take reasonable steps to provide individuals with general information on the types of personal or health information it holds about the individual making the request, for what purpose the information is held, and how it collects, uses and discloses that information.

5.6 PRINCIPLE 6 - Access and Correction

In some circumstances the Glenelg Shire can process requests for access to and/or correction of personal and health information on written request to the Privacy Officer.

The Glenelg Shire may charge an access fee for recovering the costs of retrieving the required personal information.

However in some instances, the Glenelg Shire may manage requests for access to and/or correction of personal information in accordance with provisions of the *Freedom of Information Act 1982*.

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.

5.7 PRINCIPLE 7 - Unique Identifiers

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.

5.8 PRINCIPLE 8 – Anonymity

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.

5.9 PRINCIPLE 9 – Transborder Data Flows

The Glenelg Shire may transfer personal or health information to an individual or organisation outside Victoria only in limited circumstances, some of which include:

- When consent has been provided;
- If disclosure is authorised by law; and
- Where the recipient of the information is subject to a law binding scheme or contract with similar principles as the PDPA.

5.10 PRINCIPLE 10 – Sensitive Information

The Glenelg Shire will not collect sensitive information about an individual unless, some of which include:

- The individual has consented;
- The collection is required or authorised under law;
- It is necessary to collect the sensitive information for establishing, exercising or defencing a legal claim; or
- The collection is necessary to prevent or lessen a serious threat to life or health of any individual.

5.11 HEALTH PRIVACY PRINCIPLES 10 AND 11 – Health Service Provider Changes

In the event that a health service offered by the Glenelg Shire is discontinued the health information held by the Glenelg Shire will be managed in accordance with the *Health Records Act 2001*. For example, the health information may continue to be held by the Glenelg Shire or it may be transferred to a competent organisation for safe storage until such time as it can be destroyed in accordance with the principle on data security.

Where an individual requests the Glenelg Shire to make health information available to other health providers, this will be done in accordance with the *Health Records Act 2001*. The Glenelg Shire reserves its right to charge a fee for this service in accordance with the *Health Records Regulations 2012*.

5.12 Complaints or enquiries concerning privacy

An individual may lodge a complaint with the Council's Privacy Officer regarding the handling or breach of personal or health information. The complaint must relate to a breach of one or more of the ten Information Privacy Principles or 11 Health Privacy Principles and can only be about personal information that is recorded in some form. The Privacy Officer will investigate the complaint and provide a response within seven business days. Such response may be provisional in nature if time is insufficient to give a full reply.

Alternatively, a privacy complaint can be directed to the:

Office of the Victorian Information Commissioner (OVIC)
PO Box 24274
MELBOUNRE VIC 3001
Email: enquiries@ovic.com.au
1300 006 842

[Online form available here](#)

OVIC's role is to try and resolve privacy complaints through a conciliation process.

Complaints regarding the handling of health information can be directed to the:

Victorian Health Complaints Commissioner
Level 26
570 Bourke Street
MELBOURNE VIC 3000
Email: hcc@hcc.vic.gov.au
1300 582 113

The Health Complaints Commissioner resolves complaints about healthcare and the handling of health information in Victoria.

[Online form available here](#)

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

5.13 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.

5.14 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. Further information can be obtained from Council's Privacy Officer.

Privacy Officer
Glenelg Shire Council
PO Box 152
PORTLAND VIC 3305

Telephone: 03 5522 2305

6. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

7. Victorian State Legislation Copyright Acknowledgement

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