

COUNCIL POLICY



TITLE:	PRIVACY POLICY
ID NUMBER:	CPO-CORPS-GE-006 DocSetID: 643084
DEPARTMENT:	Corporate Services
UNIT:	Corporate Services
RESPONSIBLE OFFICER:	David Hol, Director Corporate Services

ADOPTED DATE AND BY WHOM:	23 May 2023, Council Meeting
EXPIRY DATE:	23 May 2025
REVIEW DATE:	23 March 2025 (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"/>

1. References (if applicable)

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

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

Glenelg Shire Council Organisational Guideline Personal Information Data Breach Response Guideline (DocSetID: 2909874)

Glenelg Shire Council Personal Information Data Breach Incident Register (DocSetID: 2899584)

Glenelg Shire Council Organisational Policy – CCTV Policy (DocSetID: 2880006)

2. Purpose

The Glenelg Shire (Council) views the protection of an individual's privacy as an integral part of its commitment towards accountability and integrity in all its activities and programs.

The purpose of this Privacy Policy is to outline Council's commitment to protecting an individual's right to privacy and the management of personal information as required by the *Privacy and Data Protection Act 2014* as well as health information as required by the *Health Records Act 2001*.

3. Scope

This Policy applies to all personal and health information which is collected, used and disclosed by all areas of Council. All employees (whether full-time, part-time or casual), Councillors, contractors and volunteers engaged by Council are required to adhere to this Policy.

The policy covers all personal and health information held by Council and includes information it has collected:

- About the individual, through any of Council's public access interfaces;
- From the individual, as well as information about the individual collected from third parties; and

- About the individual, regardless of format. This includes information collected on forms, in person, in correspondence, over the telephone, via Closed Circuit Television (CCTV) or via our various web sites.

This Policy aims to assist:

- Council in meeting its requirements under the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*;
- employees understanding of how personal information should be handled;
- in the prevention of unnecessary collection or unlawful use or disclosure of information;
- In the promotion to the greater general public confidence in Council's handling of personal information.

Council is a statutory body corporate established under the *Local Government Act 2020*. It implements policies, regulations and programs set by other levels of government, responds to local community needs, and provides a range of more than 100 local services.

4. Council Policy

4.1 Types of Information Council collects

The personal information collected to fulfil Council's functions typically includes but is not limited to name, address (postal and email), telephone numbers, date of birth, occupation, Medicare number, credit card and bank account numbers and motor vehicle registration number.

Council also collects health information in order to provide health services eg maternal and child health.

4.2 Management of Personal Information

Council believes that the responsible handling of personal information is a key aspect of democratic governance and is strongly committed to protecting an individual's right to privacy and full compliance with its obligations under the *Privacy Data Protection Act 2014* and the *Health Records Act 2001*.

Unless required under specific legislation related to a particular service, it is the Policy of Council to ensure that personal information is managed in accordance with the Information Privacy Principles (IPPs) and Health Privacy Principles (HPPs).

This Policy explains:

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

PRINCIPLE 1 – Collection

Council will only collect personal or health information that is necessary for its specific and legitimate functions and activities of Council. Council collects personal information in a number of ways, for example via telephone, email, online, in person and paper-based collection.

CCTV is another method of collection at Council premises and in public places for enforcement purposes.

Council will only collect personal information by lawful and fair means and not in an unreasonably intrusive way. In some instances, we have a legal obligation to collect personal information and we will only collect sensitive information where an individual has consented or as permitted under the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*.

If it is reasonable and practicable to do so, Council will collect personal information directly from an individual, however there are situations where Council may need to collect an individual’s information from someone else.

When collecting personal information the Council will take reasonable steps to inform the individual what information is being sought, for what purpose, whether any law requires the collection of the information, and the main consequences, if any, of not supplying the information. This will be achieved by a Privacy Collection Notice.

PRINCIPLE 2 - Use and Disclosure

Council will only use personal or health information internally, or disclose it outside of Council, for the primary purpose for which it was collected or where the individual has consented to the use or disclosure.

Council will not release or provide access to information to any other person or body, unless:

- it has been authorised to do so by the person to whom the information relates;
- it is permitted or required to do so by law; or
- it is appropriate or required in the performance of the functions of Council.

In some cases, Council may use or disclose information for a secondary purpose that an individual may reasonably expect, for example external organisations such as Council's contracted service providers who perform various services for and on behalf of the Council.

These contractors have agreed to be bound by the provisions of the *Privacy and Data Protection Act 2014*. Information provided to these contractors is limited to the information required by them to provide services to the individual on behalf of Council, for example waste collection, environmental health inspections, maternal and child health, and management of pre-schools.

PRINCIPLE 3 – Data Quality

Council will take all reasonable steps to ensure that the personal information it collects, uses or discloses is accurate, complete and up to date relevant to the functions it performs.

PRINCIPLE 4 – Data Security

Council will take all reasonable steps to ensure that personal information is stored safely and securely to protect it from misuse, loss and unauthorised access, modification or disclosure.

Council 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.

Council will dispose of personal and health information when it is no longer required to fulfil the purposes for which it was collected or as required by law, in accordance with *Public Records Act 1973* and Public Record Office of Victoria (PROV) Standards and Retention and Disposal Authorities.

If Council becomes aware that an individual's information has been inappropriately handled, Council will take steps to inform the individual of the incident and will take action to ensure that such a breach does not occur again. An individual, or their authorised representative, who claims that Council or a third party acting on behalf of Council has breached their privacy (under either the PDPA or HRA), may lodge a complaint.

PRINCIPLE 5 – Openness

It is a requirement under Information Privacy Principle 5 of the *Privacy and Data Protection Act 2014* for Council to make a Privacy Policy available to the public. Council will publish this policy on its website and provide a copy to any person who asks for it.

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.

PRINCIPLE 6 - Access and Correction

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

Privacy Officer
Glenelg Shire
PO Box 152
PORTLAND VIC 3305
Email: enquiry@glenelg.vic.gov.au

If an individual is able to establish that the personal information is inaccurate, incomplete or out-of-date, Council will take reasonable steps to correct the information.

Access will be provided except in the circumstances outlined in the respective Acts; for example, where the information relates to legal proceedings or where the *Freedom of Information Act 1982* applies.

PRINCIPLE 7 - Unique Identifiers

A unique identifier is a number or code that is assigned to someone's record to assist with the identification (similar to a driver's licence number). Council will only assign a unique identifier to a person if the assignment is reasonably necessary to carry out its functions effectively.

Council will not adopt as its own identifier, an identifier that has been assigned by another government agency.

Council 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.

PRINCIPLE 8 – Anonymity

Council will, where it is lawful and practicable, give individuals the option of not identifying themselves when supplying information or entering into transactions with Council.

However, as anonymity may limit Council's ability to process a complaint or other matter, Council reserves the right to take no action on any matter if an individual chooses not to supply relevant personal information so that it can perform its functions.

PRINCIPLE 9 – Transborder Data Flows

The *Privacy and Data Protection Act 2014* and *Health Records Act 2001* are Victorian law and the privacy principles do not apply to organisations in a different state, territory or country.

While the Acts do not prohibit the transfer of personal information about an individual to someone outside of Victoria it does place restrictions on when it can occur.

Council 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

Council may use cloud computing services based outside Victoria, in which case Council must ensure compliance with the Victorian IPPs and HPPs in engaging with those services.

PRINCIPLE 10 – Sensitive Information

Sensitive Information is 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.

Council 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 defending a legal claim; or
- The collection is necessary to prevent or lessen a serious threat to life or health of any individual.

HEALTH PRIVACY PRINCIPLES 10 AND 11 – Health Service Provider Changes

In the event that a health service offered by Council 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 Council to make health information available to other health providers, this will be done in accordance with the *Health Records Act 2001*. Council reserves its right to charge a fee for this service in accordance with the *Health Records Regulations 2012*.

Complaints or enquiries concerning privacy

If any person feels aggrieved by Council's handling of personal or health information about themselves, they may make a complaint to Council's Privacy Officer:

Privacy Officer
Phone: 03 5522 2305
Email: enquiry@glenelg.vic.gov.au
Post: PO Box 152 Portland 3305
Online: [Online Complaint Form](#)

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
Phone: 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.

Future Changes

Assessment of the policy will be undertaken every two years as recommended by the Office of the Victorian Information Commissioner (OVIC) guidance for drafting a privacy policy. Triggers for an earlier assessment include legislative changes and introduction of new systems or procedures.

Further Information

Copies of this policy will be readily available from all Council offices and on [Council's Website](#) . Further information can be obtained from Council's Privacy Officer.

Privacy Officer
Phone: 03 5522 2305
Email: enquiry@glenelg.vic.gov.au
Post: PO Box 152 Portland 3305
Email: enquiry@glenelg.vic.gov.au

5. 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).

6. Victorian State Legislation Copyright Acknowledgement

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7. Appendix or Appendices

Nil.

8. References and Definitions

[OVIC Examination of Local Government Privacy Policies 2019](#) Organisational privacy resources provided by the [Office of the Victorian Information Commissioner](#) were used for the development of the policy.

Health Information

Information or opinion about an individual's physical, mental or psychological health, including any disability; or; a health service an individual has received or will be receiving, that is also personal information; or other personal information collected to provide a health service.

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.

For example, Council holds personal information on its ratepayers (eg names and addresses) in order to carry out its functions (eg planning, valuation and property services). It may also request personal information in order to provide education, welfare and other community services (eg childcare services). In some instances, personal information may be contained on a public register (register of building permits, food premises etc.)

Primary Purpose

A purpose that is strictly necessary to discharge the function or to undertake the activity. Primary Purpose is one for which the individual concerned would expect their information to be used. Using the information for this purpose would be within their reasonable expectations.

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. Collecting the information may be mandatory (because required by law) or optional. The main distinction is that the service could still be provided even if the secondary purpose were not served.

9. Review History

Date	Review Details	Action
22 October 2002	New legislation requires policy to be Adopted	Policy adopted by Council
25/09/2007; 27/05/2008; 22/10/2013.	Minor changes made to titles	Policy adopted by Council
6 February 2019	<i>Non-material</i> changes made to align with legislation.	
25 May 2021	<i>Non-material</i> changes in response to OVIC Examination of Local Government Privacy Policies 2019	Policy adopted by Council – for review every two years
23 May 2023	<i>Non-material</i> changes in accordance with OVIC's requirement.	<i>Policy adopted by Council.</i>