

Personal Information

Introduction

This Policy outlines how the Shire of Toodyay (the Shire) will maintain the principles of privacy and the circumstances in which Personal Information will be shared. The Shire will ensure that all reasonable steps are taken in the handling of Personal Information.

Objectives

- (a) Manage Personal Information in an open and transparent way;
- (b) Establish relevant procedures for:
 - (i) the collection, use, disclosure, and handling of Personal Information;
 - (ii) dealing with unsolicited Personal Information;
 - (iii) dealing with data breach notifications;
 - (iv) handling and tracking Privacy and Responsible Information Sharing (PRIS) request, complaints, and breaches.

Scope

This policy applies to Members and Workers of the Shire.

Definitions

Term	Definition
CEO	Chief Executive Officer
Data Breach	When Personal Information that an entity holds is subject to unauthorised access or disclosure or is lost.
Document	In accordance with Schedule 2 Glossary of the <i>Freedom of Information Act 1992</i> , the following: <ul style="list-style-type: none"> (a) any record; or (b) any part of a record; or (c) any copy, reproduction or duplicate of a record; or (d) any part of a copy, reproduction or duplicate of a record.
LEAs	A Law Enforcement Agency (State or Commonwealth Government) responsible for enforcing the law.
Member	In accordance with s. 1.4 of the <i>Local Government Act 1995</i> : In relation to the council of a local government, means — <ul style="list-style-type: none"> (a) an elector mayor or president of the local government; or

Term	Definition
	<p>(b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor).</p> <p>For the purpose of this policy member also includes a Member of a Council Committee or a Mandatory Committee.</p>
Personal Information	<p>In accordance with Schedule 2 Glossary of the <i>Freedom of Information Act 1992</i>:</p> <p>Information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead:</p> <p>(a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or</p> <p>(b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.</p>
PRIS	<p>The pending Privacy and Responsible Information Sharing (PRIS) legislation to reform personal privacy protections and the accountability of information sharing within government.</p> <p>The PRIS will apply to the Shire and where required, contracted service providers.</p>
Record	<p>In accordance with Schedule 2 Glossary of the <i>Freedom of Information Act 1992</i>:</p> <p>Any record of information, however recorded and including the following:</p> <p>(a) any paper or other material, including affixed papers on which there is writing;</p> <p>(b) any map, plan, diagram, or graph;</p> <p>(c) any drawing, pictorial or graphic work, or photograph;</p> <p>(d) any paper or other material on which there are marks, figures, symbols, or perforations having a meaning for persons qualified to interpret them;</p> <p>(e) any article or material from which sounds, images or writing can be reproduced whether or not with the aid of some other article or device; or</p> <p>(f) any article on which information has been stored or recorded, either mechanically, magnetically, or electronically.</p>

Term	Definition
Sensitive Information	<p>Any Personal Information that includes information or an opinion about an individual's:</p> <ul style="list-style-type: none"> • racial or ethnic origin; • political opinions or associations; • religious or philosophical beliefs; • trade union membership or associations; • sexual orientation or practices; • criminal record; • health or genetic information; • some aspects of biometric information. <p>Generally, sensitive information has a higher level of privacy protection than other personal information.</p>
Shire	Shire of Toodyay
Workers	Employees, contractors, and volunteers of the Shire as per the Work Health and Safety legislation (WHS) and regulations.

Policy Statement

The Shire may collect, hold, and share Personal Information as part of the services provided to the community. The Shire will not collect Personal Information unless the information is reasonably necessary for, or directly related to, one or more of the Shire's functions or activities.

The Shire will take all reasonable steps to ensure that Personal Information is protected from:

- (a) misuse, interference, and loss; and
- (b) unauthorised access, modification, or disclosure.

The Shire will ensure that Personal Information is retained and disposed of in accordance with the requirements of the *State Records Act 2000* and General Disposal Authority.

1. Access to Personal Information

The definition of Personal Information is not limited to information held about an individual. It can extend to any information or opinion that is about the individual, from which they are reasonably identifiable. This can include information about an individual's business or work activities. For information to be considered 'Personal Information' it must be about:

- (a) an identified individual; or
- (b) an individual who is reasonably identifiable.

It is important to note that decisions about whether information is Personal Information should be considered with reference to the circumstances and specific context of the situation. For example:

- Section 5.94 of the *Local Government Act 1995* provides a list of local government information that can be inspected by a person attending the office of a local government during office hours. The information can be inspected, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection, unless it would be contrary to Section 5.95 Limits on right to inspect local government information.
- *The Local Government (Administration) Regulations 1996* part 7 – Access to Information provides further details of the information to be available for public inspection.
- The *Freedom of Information Act 1992* gives members of the public the right to access documents held by the Shire, and provides the means to amend Personal Information, which is inaccurate, incomplete, out of date or misleading.

More information on Freedom of Information and how to make an application can be found on the website of the Office of the Information Commissioner: <http://www.oaic.gov.au/>; or on the Shire website at this link: <https://www.toodyay.wa.gov.au/documents/freedom-of-information>.

2. Collection and use of Personal Information

The Shire will collect Personal Information from a range of sources including but not limited to Landgate, written correspondence, telephone calls, emails, and face to face interactions with the public.

The Shire also maintains a comprehensive database of properties which includes Personal Information relating to property owners.

The Shire will only collect and use Personal Information that:

- (a) is reasonably necessary for, or directly related to, the Shire's functions or activities; and
- (b) is relevant and accurate.

The Shire also collects information in the course of its community engagement activities. However, this information is solely used for the purpose of gaining demographic insight to assist Council in its decision-making and strategic planning. Information which identifies a person will not be published or made publicly available.

3. Storage of Personal Information

The Shire will take all necessary steps to ensure that Personal Information is stored securely and only accessed by authorised Workers.

4. Security of Personal Information

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

In addition to the statutory obligations already imposed, the Shire has physical, electronic, and managerial procedures in place to protect personal information from unauthorised access.

Inadvertent disclosure (otherwise known as a data breach) of personal information due to 'human error' (i.e., sending an email sent to the wrong address) can have serious repercussions. For example:

- (a) breaching confidentiality and privacy;
- (b) confidential information being misused to commit an offence (identity theft or fraud); and
- (c) loss of reputation.

4.1 Data Breaches

The Shire requires Members and Workers to report as soon as possible, all data breaches to the CEO and/or the Governance Officer when the following criteria are met:

- (a) There is unauthorised access to, or disclosure of Personal Information held by the Shire to a third party;
- (b) Personal information is lost in circumstances where unauthorised access or disclosure is likely to occur;
- (c) There is a likely result of serious harm to the individual(s) to whom the information relates; and
- (d) The Member or Worker has been unable to prevent the likelihood of serious harm with remedial action.

In accordance with PRIS, the Shire will maintain a register of all data breaches.

5. Privacy

If the Shire holds Personal Information about an individual, which was collected for a particular purpose (**primary purpose**), the Shire will not use or disclose the information for another purpose (**secondary purpose**) unless:

- (a) the individual concerned has consented to the use or disclosure of the information; or
- (b) the information is required for law enforcement purposes.

5.1 Privacy breach

The privacy of an individual is breached when:

- (a) the information shared has the essential element of confidence;
- (b) The information is disclosed under circumstances where the onus of confidentiality is implied; and
- (c) The use of the information is unauthorised.

6. Information disclosure

Regulation 29B of the *Local Government (Administration) Regulations 1996* places restrictions on the Shire providing information where it is suspected that the information may be used for commercial purposes.

The Chief Executive Officer or a Worker with delegated authority, must be satisfied by statutory declaration or otherwise, that a commercial purpose is not the intent of someone seeking such information.

The Shire will not, without prior consent, disclose Personal Information for any purposes other than those described in this Policy.

6.1 Exceptions

The exceptions to this are where information is required or authorised by law; or when, in good faith, the Shire is of the belief that such action is necessary to:

- (a) comply with the law or with legal processes;
- (b) protect and defend the Shire's rights and property;
- (c) protect against misuse or unauthorised use of the Shire's website; or
- (d) to protect the personal safety or property of the Shire's Stakeholders.

7. Sharing information with Law Enforcement Agencies (LEAs)

The Shire will share Personal Information with LEAs for the purpose of law enforcement, community safety and crime prevention where:

- (a) It is permitted by law; and
- (b) The LEA has a legally enforceable right to the information.

8. Complaints Process

If a person believes the Shire has not protected their Personal Information as set out in this policy, they may lodge a complaint with us in writing to the Chief Executive Officer, Shire of Toodyay, PO Box 96, Toodyay WA 6566. All complaints will be treated confidentially in accordance with Council Policy.

Reference Information

- *Legislative Compliance Policy (ADM20)*;
- *Complaints of Alleged breach of the code of conduct for Members, Committee Members and Candidates Policy (GOV04)*;
- *Community Complaints Policy (GOV03)*;
- *Freedom of Information Statement (Shire Document prepared in accordance with Section 94 of the FOI Act 1992)*;
- *Code of Conduct Members and Candidates Policy (zHR19)*;
- *Workers Code of Conduct Policy (zHR17)*;
- *Community Consultation and Engagement Policy (REG07)*;
- *Record Keeping Policy (ADM21)*;

- [Internal Control Policy \(ADM19\)](#)
- [Risk Management Policy \(ADM18\);](#)
- [Social Media Policy \(zHR23\)](#)
- [Internet, Email and Computer Use \(zHR24\)](#)
- [Use of Surveillance Devices Policy \(REG08\)](#)
- [General Disposal Authority for Local Government Records](#) (WA Government Publication)

Legislation

- [Local Government Act 1995;](#)
- [Local Government \(Administration\) Regulations 1996](#)
- [Freedom of Information Act 1992](#)
- [State Records Act 2000.](#)
- [State Records, Principles and Standards](#)
- [Privacy Act 1988](#)

Associated documents

Nil

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