



# Gladstone Regional Council

## Council Policy

<b>Title</b>	<b>INFORMATION PRIVACY POLICY</b>
<b>Policy Number</b>	<b>P-2020-02</b>
<b>Business Unit/s</b>	<b>FINANCE GOVERNANCE AND RISK</b>
<b>Date of Adoption</b>	
<b>Resolution Number</b>	
<b>Review Date</b>	
<b>Date Repealed</b>	

### 1.0 PURPOSE:

This Policy sets out Council's legislative obligations and establishes a framework for the responsible collection and handling of personal information by Gladstone Regional Council.

### 2.0 SCOPE:

This Policy applies to Councillors, employees, volunteers, contractors, consultants and other agents of Council. The policy applies to all personal information collected, used and stored by ~~Council~~ the business in every aspect of its operations and performance.

### 3.0 RELATED LEGISLATION:

- *Information Privacy Act 2009 (IP Act)*
- *Information Privacy Regulation 2009 (IP Reg)*
- *Local Government Act 2009 (LG Act)*
- *Local Government Regulation 2012 (LG Reg)*
- *Public Records Act 2002 (PR Act)*
- *Right to Information Act 2009 (RTI Act)*
- *Right to Information Regulation 2009 (RTI Reg)*

### 4.0 RELATED DOCUMENTS:

- ~~Body Worn Camera Policy~~
- ~~Complaints Management Policy~~
- ~~Complaint Management Process Corporate Standard~~
- ~~Records Management Policy~~
- ~~Administrative Action Complaints Management Policy~~
- ~~Administrative Action Complaints Management Process Corporate Standard~~

### 5.0 DEFINITIONS:

To assist in the interpretation of this policy the following definitions apply:

~~**Access** shall mean providing an individual with personal information about himself or herself that is held by the Council. This may include allowing that individual to inspect personal information or to obtain a copy of the personal information.~~

**Agent** means an individual or entity authorised to act or perform functions on behalf of Gladstone Regional Council (ie. legal counsel engaged to act for Council in legal proceedings)

**Body Worn Camera** means a small portable camera worn on the body of authorised officers to capture audio and/or video recordings of interactions with the public.

**the Business** means Gladstone Regional Council.

**Complaint** means a Privacy Complaint as defined in section 164(1) of the *IP Act*; namely a complaint by an individual about an act or practice of the business in relation to the individual's personal information that is a breach of the business's obligation under the *IP Act* to comply with:

- The privacy principles in the *IP Act*; or
- An approval under section 157 of the *IP Act*.

**Collection** means gathering, acquiring or obtaining personal information from any source and by any means, including information that the business has come across by accident or has not asked for.

**Consent** means voluntary agreement to some act, practice or purpose.

**CCTV** means closed-circuit television, or the use of video cameras to transmit images to a specific limited number of televisions on the same network or circuit.

**Disclosure** means the release of information to persons or organisations ~~outside the Council~~. It does not include giving individuals personal information about themselves.

**Leader** means the Executive Team, Managers, Team Leaders and other supervisory position that reports to a General Manager (ie. specialist) of the business.

**Local Government Act/s** is as defined in Schedule 4 of the *Local Government Act 2009*.

**Personal Information** means information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Public Record** is as defined under Section 6 of the *Public Records Act 2002*.

~~**Use** shall mean the handling of personal information within Council including the inclusion of personal information in a publication.~~

## 6.0 POLICY STATEMENT:

### 6.1 Privacy Obligations

~~Council collects and uses personal information of residents, Council employees and others for the purpose of ensuring that Council business is conducted efficiently and effectively and to meet its statutory obligations. Council only collects personal information that is directly relevant and necessary for its operations.~~

Personal information of residents, employees and others is collected for the purpose of ensuring that business is conducted efficiently and effectively and to meet statutory obligations. Personal information is only collected when it is directly relevant and necessary.

The protection of personal information which can identify an individual is a matter of great significance to ~~the business Council. Council~~ **The business** will comply with the Information Privacy Principles contained in the *IP Act*, namely:

- IPP 1: Collection of Personal Information (lawful and fair);
- IPP 2: Collection of Personal Information (requested from an individual);
- IPP 3: Collection of Personal Information (relevance);
- IPP 4: Storage and Security of Personal Information;
- IPP 5: Providing Information about Documents Containing Personal Information;
- IPP 6: Access to Documents Containing Personal Information;
- IPP 7: Amendment of Documents Containing Personal Information;
- IPP 8: Checking of Accuracy of Personal Information before use by Council;
- IPP 9: Use of Personal Information only for Relevant Purpose;
- IPP 10: Limits on Use of Personal Information;
- IPP 11: Limits on Disclosure.

## 6.2 Collection of Personal Information

~~Council~~ **The business** will not collect personal information about an individual unless:

- consent is provided by the individual; or
- **it is required by the business to fulfil its responsibilities under Section 8 of the LG Act; other Local Government Acts; or to provide services and facilities to individuals; or**
- collection is required by law; or
- collection is necessary to prevent or lessen a serious threat to life, health, safety or **welfare of an individual, or to public health, safety or welfare;** or
- collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

## 6.3 Collection Notices

### 6.3.1 Written Notifications

All forms used by the business to collect personal information will carry the following notice:

*"Gladstone Regional Council is collecting your personal information for the purposes of processing your request and undertaking associated Council functions and services. Council is authorised to collect this information in accordance with the Local Government Act 2009 and associated laws. Your personal information will not be disclosed to third parties without your consent, or, if required to do so by law. This document is subject to the*

*provisions of the Information Privacy Act 2009, Right to Information Act 2009 and the Public Records Act 2002."*

~~Council may modify the abovementioned Collection Notice~~ The collection notice can be modified to include additional or changed information where it is necessary and appropriate to do so, considering the Office of the Information Commissioner of Queensland's advice as follows:

*"What do I need to include in a collection notice?*

*You must take all reasonable steps to make an individual generally aware of:*

- why the information is being collected;*
- details of any law that specifically allows or requires the collection;*  
*and*
- any entity to whom it is the agency's usual practice to give the information, and (if known) anyone who they will in turn give it to."*

### **6.3.2 Other Recorded Information**

The business collects and records the personal information of individuals in other non-written forms including:

- telephone calls for quality and training purposes;
- CCTV for public safety and security;
- body worn cameras for monitoring legislation; and
- drone footage for operational and other purposes.

This information will be managed in accordance with Council's privacy obligations and collection notifications will be provided in the following ways:

- Telephone Calls: the business will provide callers with recorded privacy collection advice through its main call centre/s;
- CCTV: public notices will be placed in prominent positions in the areas where permanent fixed CCTV is installed in Council controlled public places. Public notice exemptions apply for temporary, portable devices and those that attract a section 29 exemption under the *Information Privacy Act 2009* (for example: cameras used for law enforcement activity, portable devices used for inspecting water and sewerage pipes);
- Body Worn Cameras: will comply with Council's Body Worn Camera Policy;
- Drone Footage: collection notifications will be made via Council's website; or in respect to footage to be used for monitoring legislative compliance, notification will be provided in accordance with the relevant legislation.

## **6.4 Access to Information**

### **6.4.1 Personal Information**

The *IP Act* allows individuals to apply to the business for access to documents containing their personal information. Individuals can also apply to have their personal information amended if they consider it is incomplete, inaccurate, out of date, or misleading.

### **6.4.2 Non-Personal Information**

Local Governments are also subject to the *RTI Act* which allows individuals to apply for access to public records held by the business. Applications will be assessed in accordance with the *RTI Act* and released to the applicant, unless disclosure would on balance, be contrary to the public interest, or if it contains other exempt matter such as the personal information of an individual other than the applicant.

## 6.5 Complaints

Chapter 5 of the *IP Act* provides for an individual to make a complaint about a breach of the privacy principles which occurred on or after 1 July 2010. If an individual is not satisfied with the manner in which their personal information has been handled, managed, used or disclosed, they may lodge a formal complaint ~~under Council's Administrative Action Complaints Management Policy~~ the business's Complaints Management Policy which is available from its website.

## 6.6 Disclosure under Legislative Requirements

There are circumstances where the business is legislatively required to disclose information which may contain personal information. If another law requires personal information be dealt with in a certain way, the business has not breached its privacy obligations to individuals.

Examples:

- Council meetings are legislatively required to be open to the public and therefore information on Council agendas is publicly available. The business will exclude personal information of individuals from agendas where it is not required or not relevant for Council decision making. However, there will be circumstances where the personal information of individuals will be disclosed as part of Council meeting agendas.
- In a disaster or emergency event, the business may pass on the personal information of individuals to other emergency service agencies for emergency response purposes.
- The *Planning Act 2016* requires that Council publish online, the names of development proponents and submitters at certain points of the development application process.

## 6.7 Responsibilities

*6.7.1 Councillors, employees, volunteers, contractors, consultants and other agents of the business:*

- comply with this policy and the requirements of the *IP Act* and *IP Reg*;
- only access documents that are relevant to their role and responsibilities (for example: customer service requests should only be accessed by those Officers that have involvement with, responsibility to action, or other review/reporting obligations); and
- report any potential breaches of privacy in accordance with Council's Complaints Management Policy.

*6.7.2 Leaders:*

- ensure that employees, volunteers, contractors, consultants and other agents of Council are aware of and/or trained in their privacy obligations.

*6.7.3 Information Communication and Technology Team:*

- ensure that personal information held digitally by the business is not transferred out of Australia unless the transfer complies with Section 33 of the *IP Act*.

**7.0 ATTACHMENTS:**

Nil

**8.0 REVIEW MECHANISM:**

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

<b>TABLE OF AMENDMENTS</b>			
<b>Document History</b>	<b>Date</b>	<b>Council Resolution No.</b>	<b>Notes (including the prior Policy No, precise of change/s, etc)</b>
Originally Approved	6 July 2010	10/237	Policy No. P-1.00.06
Amendment 1	18 August 2015	G/15/2530	P-2015/26
Amendment 2	7 March 2017	G/17/2994	P-2017/06
Amendment 3	XX Xxxxx 2020		

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