

Policy P040132 - Privacy Statement

This privacy statement explains how the Shire of Denmark collects and uses information. The Shire of Denmark values the privacy of its customers and stakeholders, and views the protection of an individual's privacy as an integral part of our commitment to being a high functioning, open, transparent, ethical and responsive organisation. This privacy statement outlines how we deal with your personal information.

Collection of personal information

The Shire of Denmark collects information about its customers and stakeholders in the performance of its services and functions and as required by law.

The Shire of Denmark maintains a database of properties within the Shire, which includes personal information relating to property owners such as names, addresses, email addresses, telephone numbers etc. and also records of any complaints and enquiries related to a property.

Personal information is also collected when you give it to us, for example:

- When you join one of the Shire of Denmark services or facilities (Library, Recreation Centre etc.);
- Through correspondence, communication and service requests; or
- When you register for an event or program.

Collecting through our websites

Where our websites allow you to make comments or give feedback we collect your email address and sometimes other contact details. We may use your contact details to respond to your feedback.

Some services and functions on the Shire of Denmark website are delivered and hosted by third parties. These services have their own privacy policies, so when you choose to use these functions, the personal information you provide will be used and stored in accordance with their privacy policies.

Cookies and website analytics

The Shire uses a range of tools provided by third parties, including Google and our Internet Service Providers to collect or view website traffic information. These sites have their own privacy policies. We also use cookies and session tools to improve your experience when accessing our websites.

The information collected by these tools may include the IP address of the device you are using and information about sites that IP address has come from, the pages accessed on our site and the next site visited. We use the information to maintain, secure and improve our websites and to enhance your experience when using them. In relation to Google Analytics you can opt out of the collection of this information using the Google Analytics Opt-out Browser Add-on.

Social media

The Shire of Denmark uses social media sites to share and promote its services and functions. When you communicate with us using these services we may collect your personal information to help us communicate with you and the public. The social networking service will also handle your personal information for its own purposes. These sites have their own privacy policies.

Email addresses, telephone numbers

We collect your email addresses, telephone numbers (mobile and landline), address(es) and, sometimes other contact details, for the purposes of contacting you as a ratepayer or resident, when you log a request with the Shire or when you subscribe to services. We use this information for the purpose of communicating with you in regard to Council business, such as rates, debts, complaints, for sending you updates on the activities of the particular service, conducting surveys for ongoing research and development of our services, and to administer contact lists.

Public internet services

Shire of Denmark monitors the use of our public wi-fi network and the public computers at our Library and other sites in order to maintain security and to prevent or detect criminal or unauthorised use of the Shire's computer hardware, software, network or systems.

Disclosure and use of personal information

Any personal information collected by the Shire of Denmark will only be used for the purpose for which it has been collected, or for a purpose you would reasonably expect in carrying out the Shire's activities and functions. Your information may also be used for ongoing research and development of our services.

The Shire will not disclose customer and stakeholder information to third parties to use for their personal or commercial advantage, but will disclose information to contracted third party providers who act on behalf of the Shire to provide services for the Shire.

The Shire will disclose personal information in circumstances such as the following:

- To undertake market research for the Shire in which case the supplier is prohibited from using your personal information except to provide these services to the Shire of Denmark. The Shire has a robust procurement process and only engages reputable market research companies;
- If, on an application by a person for information under the *Freedom of Information Act 1992*, the Shire (or the Western Australian Information Commissioner on appeal), adjudges that disclosure of that personal information would on balance be in the public interest;
- As required by a court order;
- As otherwise required or authorised by law;
- In order to complete the purpose or function for which the information was provided;
- For collecting monies owed to the Shire;
- In the recovering of outstanding library materials or monies, through a contracted debt collection agency; or
- Otherwise, only with the consent, express or implied, of the customer or stakeholder.

Compliance

Where information is disclosed to third party providers to act on behalf of the Shire to provide services for the Shire, the Shire of Denmark requires the provider to:

- Manage data and personal information in accordance with the Australian Privacy Principles; and
- Notify the Shire of Denmark should a privacy breach or suspected privacy breach occur, or should the entity fail to manage data and personal information at any time in accordance with the Australian Privacy Principles.

Should third-party providers act in contravention of the Australian Privacy Principles, the Shire of Denmark reserves the right to take action as required, including reporting breaches or suspected breaches to the Office of the Australian Information Commissioner.

~~**Information received by the Shire of Denmark is protected from unauthorised use and disclosure by virtue of specific provisions in the Crimes Act 1914, Public Service Act 1999 and the Public Service Regulations 1999.**~~

Storage

The Shire of Denmark is committed to keeping secure the data you provide us. The Shire works actively to ensure that information about customers and stakeholders is stored securely and accessed for approved purposes only.

Access and correction

Requests for access to documents that are not publicly available and held by the Shire of Denmark Council are handled under the *Freedom of Information Act 1992* and can be directed to:

Freedom of Information Officer

Shire of Denmark

PO Box 183

Denmark WA 6333

Email: enquiries@denmark.wa.gov.au

Submission 1

1. The Markyt Community Scorecard in 2018 raised questions about the Shire's interpretation of its policy (P0401320) which includes the following stand-alone section:

EXTERNAL USE OF PERSONAL INFORMATION

Unless specifically noted at the time of gathering personal information, or required by law (for example the Australian Bureau of Statistics) the Shire of Denmark will never knowingly distribute such details to third parties, other than that displayed as part of the normal web services or as aggregated datasets.

- a) The Shire believes the above statement permits the release of personal data of Denmark residents to third party commercial entities and has in fact done so in a number of cases, not just to Catalyse Pty Ltd for the Markyt Survey.
- b) As a result of strongly expressed concerns about the Shires handling of personal data and the interpretation of the policy, in August 2018, the Council agreed to review the policy.
- c) The Council 19 February agenda listed the following item:
- d) 8.3.4 2018/19 Markyt Community Scorecard
- e) Unfortunately this agenda item gave no indication that the item also included the repeal of policy P040132, provided a draft replacement policy to be advertised for public comment for 28 days AND endorsed the use of the draft as a guide for the 2019 Marykt Scorecard.
- f) It is acknowledged Shire officers intended to review the Privacy Policy, consult with the community and adopt a new policy before again releasing personal data to external entities (eg the 2019 Markyt Scorecard.)
- g) Unfortunately things did not go to plan and we have:
- h) A draft Privacy Policy which allows the Shire to release personal data
- i) ZERO public input to that draft and
- j) Another planned release of data to Catalyse to run the 2019 on the basis of a Council endorsed draft policy.
- k) Council did have other options. They decided last year to run the Marykt Scorecard annually but do not have to – DENMARK 2027 states a community satisfaction survey occurs every 2 years and the current Council Policy P040130 (Biennial Survey....) states the survey will occur in very uneven numbered year – conflicts that need to be resolved.
- l) There is clearly an argument for efficiency and saving \$1,000 by linking to a Gt Southern group undertaking the 2019 Markyt Scorecard.
- m) There is also an equally valid argument that an important Council policy should not be reviewed and endorsed for interim implementation with NO community consultation.

2. It is proposed that DRRA advise the Council:

- a) Reviewing and endorsing the implementation (albeit interim) of an important Policy with no community consultation is not consistent with Denmark 2027 and
- b) Strongly recommends that the Shire contract with Catalyse includes specific contractual rights to redress if Catalyse fails to observe its own Privacy Policy 2016.

That DRRA requests the Shire of Denmark:

- **Acknowledge the community's concern at the release of the personal details of residents and ratepayers without consultation and adequate privacy protections and**
- **Requests that where personal details are released to commercial entities a clause is included in the contract(s) to:**
 - **Ensure full disclosure, at the earliest opportunity, is given to the Shire of Denmark when the contracted entity fails to comply with its own privacy policy and**
 - **Specifies the Shire of Denmark's right to seek appropriate legal redress where personal data is used for purposes other than intended in the contract.**

Submission 2

Thank you for the opportunity to comment on draft Policy P040132. We commend Council for acting to update the current policy that is open to misinterpretation and does not clearly define how the Shire uses the personal and private data of residents and ratepayers. We acknowledge that there are statutory obligations placed on the Shire which impact on the way you collect and release our data and our submission is therefore directed to the release of our data to third party for profit entities.

As a starting point we believe that when our personal data is collected by the Shire for whatever purpose it never at any time becomes the property of the Shire. We appreciate that it may at times be considered beneficial for the Shire to reduce costs by providing our personal data to external contractors. In such circumstances the Shire owes us a serious duty of care to take all reasonable steps to ensure that our data is not misused.

In general we agree that the draft policy is an improvement for the following reasons:

1. The draft contains much more detail about the circumstances in which the Shire will release our personal data.
2. The inclusion of information about "opt out" provisions for at least one Internet browser.

Despite the above improvements the draft policy still has major deficiencies and we consider it is a quite basic attempt to meet our expectations in relation to the Shire's responsibilities about handling our personal data. It is our view, as evidenced by the recent Council decision to pre-emptively implement the draft policy for administratively and financially expedient reasons that the laudable statements in the opening paragraph of the draft are not backed by matching action.

Our key concerns are:

1. The reliance on third party privacy policies, included in the draft on several occasions, is not supported by any mechanisms to ensure compliance and to mandate agreed actions in the event of non-compliance or a breach. The reliance on "robust procurement and engaging reputable companies" is an obvious and expected starting point that should be supported by appropriate contractual obligations on external "for profit" entities. The following Law Society of WA example includes sensible additional protections:

Protection of your personal information

We take reasonable precautions to protect and safeguard from any unauthorised access or disclosure or other misuse or loss the personal information which we collect.

However, if any unauthorised access to, or disclosure of, your personal information occurs, we maintain a data breach response plan which complies with the scheme established under the Privacy Amendment (Notifiable Data Breaches) Act 2017 and which allows us to quickly assess any data breach which may occur, take any appropriate remedial action and notify all relevant parties, including the Privacy Commissioner of any notifiable data breach including what steps should be taken in response.

Where it is practicable to do so, we require third party entities to whom we make disclosure of personal information to enter into written confidentiality agreements with us.

Extract from Law Society of WA privacy policy

The need for additional protection is demonstrated by the following extract from the privacy policy of Catalyse, a third party for profit entity currently provided with our personal data by the Shire:

Miscellaneous

In this policy "personal information" has the same meaning as under the Privacy Act. This policy is effective from 1 March 2016. We may change this policy from time to time. Although we intend to observe this Privacy Policy at all times, it is not legally binding on CATALYSE® in any way. From time to time we may regard it as necessary or desirable to act outside the policy. CATALYSE® may do so, subject only to any other applicable

contractual rights you have and any statutory rights you have under the Privacy Act or other applicable legislation.

Extract from Catalyse Website 27 May 2019

It is clear that if the draft policy is not improved the Shire will continue to deliver our personal data to organisations that we are asked to take on trust and reputation but who, in some instances, are under no enforceable obligations to act responsibly with our personal data. Personal data, especially when provided electronically, is a valuable and marketable commodity. We may choose to monetarise our personal data and in doing so we balance the risks against the possible benefits. Where the Shire acts to monetarise our data, to reduce administrative costs for example, we suggest all possible measures should be implemented to protect that data. The lack of any requirement to include the right to financial redress if a third party for profit entity unreasonably fails to implement their own privacy policy is a major deficiency in the draft policy.

2. The draft policy fails to provide any acceptable direction on the way the Shire stores and grants access to our personal data. What does "working actively" on data storage and access mean in practice? Does the Shire have the internal procedures and expertise to monitor data systems or is this function contracted to third parties? Simple internet searches provide regular details of internally and externally generated data breaches and we therefore consider the draft policy should be more informative on the steps taken by the Shire to balance the risk created by exposing our personal data to outside commercial entities. The following comment by a major internet browser highlights increasing risks of poor privacy policy:

Mozilla Firefox - More Privacy Means More Truth

Misinformation delivered to your social media feed or inbox is often made possible by microtargeting.

Microtargeting is an advertising practice that uses people's data - about what their interests are, who their friends are, what their demographics are, what they've purchased, and more - to segment them into small groups for content targeting. The practice requires lots of data, the antidote to privacy.

In summary, we acknowledge that the ethical use of the internet and associated business processes is embedded in our modern world and brings many benefits. We also strongly believe that our democratic society is, and clearly has been, open to abuse arising from the misuse of personal data. The draft policy should recognise these risks and be revised to include the additional protections outlined above.

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