

POLICY NO: 4.1.31

PRIVACY MANAGEMENT

OBJECTIVES

The objectives of this Policy are:

- to ensure that *Personal Information* is collected, accessed, used, stored, and disposed of in accordance with the *Privacy Act 1988 (Cwth)* and *Privacy Amendment Act 2004 (Cwth)*; and
- to provide guidelines for the City when dealing with information.

POLICY STATEMENT

The City of Vincent respects every individual's right to privacy, dignity and confidentiality.

In order to comply with the requirements of the Acts and Regulations governing the action of local government, the City of Vincent will provide appropriate information to the public, in accordance with this Policy, the *Local Government Act 1995* and other relevant legislation.

PRIVACY ACT 1988

"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.

"Sensitive Information" means:

- (a) information or an opinion about an individual's:
 - (i) racial or ethnic origin; or
 - (ii) political opinions; or
 - (iii) membership of a political association; or
 - (iv) religious beliefs or affiliations; or
 - (v) philosophical beliefs; or
 - (vi) membership of a trade union; or
 - (vii) sexual preference or practices; or
 - (viii) criminal record;

that is also *Personal Information*; or

- (b) health information about an individual.

PRIVACY PRINCIPLES

As at November 2010, Western Australia does not have specific privacy legislation which applies to local government. However, wherever possible, the City of Vincent will endeavour to comply with Commonwealth legislation.

In relation to the *Privacy Act 1988 (Cwth)* and *Privacy Amendment Act 2004 (Cwth)*, the City of Vincent will endeavour to always comply with the National Privacy Principles, as follows:

1. NATIONAL PRIVACY PRINCIPLE 1 – COLLECTION

1.1 The City of Vincent will not collect Personal Information unless:

- (i) information is collected for a lawful purpose that is directly related to a function or activity of City of Vincent, and
- (ii) the collection of the information is reasonably necessary for the purpose.

The City of Vincent will not collect Personal Information by any unlawful means.

1.2 When collecting Personal Information, the City of Vincent will collect information only from the individual to whom the information relates unless:

- (i) the individual has authorised collection from someone else; or
- (ii) the information has been provided by a parent or guardian of a person under the age of 16 years.

1.3 When the City of Vincent collects Personal Information about an individual, that person will be notified of:

- (i) the fact that the information is being collected;
- (ii) the purposes for which the information is collected;
- (iii) the intended recipients of the information;
- (iv) whether the supply of information is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided;
- (v) the name of the organisation that will collect the information and the address where the information will be stored.

2. NATIONAL PRIVACY PRINCIPLE 2 – USE AND DISCLOSURE

2.1 The City of Vincent will not use Personal Information for a purpose other than for which it was collected unless:

- (i) the individual to whom the information relates has consented to use the information for that other purpose; or
- (ii) the other purpose for which the information is used is directly related to the purpose for which it was collected; or
- (iii) the use of the information or that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom that information relates or of another person.

2.2 Situations where the City of Vincent may use or disclose information without an individual's consent include where it:

- (i) reasonably believes that use or disclosure is necessary to reduce or prevent a threat to a person's life, health or safety or a serious threat to public health or safety;
- (ii) is investigating or reporting on suspected unlawful activity;
- (iii) reasonably believes that the use is necessary for law enforcement, public revenue protection, prevention and remedying of serious improper conduct, or conduct of court or tribunal proceedings, either by or on behalf of an enforcement body.

Note: If the City uses or discloses information without consent, the City's Officer will make a written note of such disclosure.

2.3 The City of Vincent will take reasonable care not to disclose Personal Information unless:

- (i) the disclosure is directly related to the purpose for which it was collected and there is not reason to believe the individual concerned would object; or
- (ii) the individual has been made aware that this kind of information is usually released; or
- (iii) disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.

2.4 The City of Vincent will take reasonable care not to disclose Personal Information that:

- (i) relates to an individual's ethnic or race origin, political opinions, religion or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person;
- (ii) relates to any enquiry from anyone outside the State of Western Australia unless a relevant privacy law applies to *Personal Information* in force in that jurisdiction.

PUBLIC REGISTERS

The City will not disclose *Personal Information* kept in a Public Register unless the information is to be used for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.

The City requires that any person who applies for information from a Public Register completes a statutory declaration describing the intended use of any information obtained from the public register.

3. NATIONAL PRIVACY PRINCIPLE 3 – DATA QUALITY

3.1 The City of Vincent will take reasonable steps to ensure that:

- (i) information collected is relevant to a purpose, is not excessive, and is accurate, up-to-date and complete and the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

4. NATIONAL PRIVACY PRINCIPLE 4 – DATA SECURITY

4.1 With regards to the retention and security of Personal Information, the City of Vincent will ensure:

- (i) that information is used for a lawful purpose and is kept for no longer than is necessary;
- (ii) that the information will be disposed of securely;
- (iii) that the information is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse (as are reasonable in the circumstances);
- (iv) if it is necessary to release the information to a person in connection with the provision of a service to the City of Vincent, everything reasonable is done to prevent unauthorised use or disclosure of the information by the service provider; and
- (v) all *Personal Information* will be stored securely.

4.2 The culling and destruction of records is carried by the City's Senior Records Officer in accordance with the *State Records Act 2000*, City of Vincent Record Keeping Plan and General Disposal Authority for the Local Government Records.

5. NATIONAL PRIVACY PRINCIPLE 5 – OPENNESS

The City of Vincent will be open and accountable about how it manages *Personal Information*.

6. NATIONAL PRIVACY PRINCIPLE 6 – ACCESSING AND CORRECTING PERSONAL INFORMATION

Access may be requested by an individual to correct the information if they believe that it is incorrect, incomplete or out of date.

Usually, when asked, the City will give an individual access to their *Personal Information*, unless there is a reason why the City cannot do so.

6.1 If the City of Vincent holds Personal Information about any individual it must take the necessary steps to enable any person to ascertain:

- (i) whether the City of Vincent holds *Personal Information*; and
- (ii) whether the City of Vincent holds *Personal Information* relating to that person; and
- (iii) if the City of Vincent holds *Personal Information* relating to that person:
 - (a) the nature of that information; and
 - (b) the main purposes that the information is being used; and
 - (c) that person's entitlement to gain access to that information.

6.2 Any person will be able to ascertain whether the City of Vincent holds their Personal Information by submitting a written request.

6.3 Any person who is not satisfied with the accuracy or acceptable use of their Personal Information kept by the City of Vincent may request amendments be made to that information by writing to the Chief Executive Officer

- (i) *Personal Information* must be used for the purpose that it was collected, and used for any purpose that is directly related to the purpose. It must be relevant, up-to-date, complete and not misleading.
- (ii) it will require appropriate supporting documentation, for example, a marriage certificate or statutory declaration.
- (iii) The City of Vincent has an obligation to take steps to amend *Personal Information* where necessary. If the City of Vincent decides that it will not amend the information, it must add the additional information, so it can be read with the existing information and the individual notified. The individual to whom the information relates is entitled to have the recipients notified of the amendments made by the City of Vincent.

6.4 The City of Vincent will take reasonable steps to ensure the accuracy of Personal Information prior to use, having regard to the purpose it was collected, its proposed use, its relevance, accuracy, whether it is up-to-date, complete and not misleading.

7. REVIEW OF CERTAIN CONDUCT (INTERNAL REVIEW PROCESS)

7.1 Where a person who has requested information is aggrieved by the conduct of the City of Vincent, as for example, in the following circumstances:

- (i) contravention of a privacy principle that applies to the City of Vincent;
- (ii) contravention of a Code of Practice that applies to the City of Vincent; and
- (iii) disclosure of *Personal Information* kept on a public register.

the person (Applicant) is entitled to apply for an Internal Review.

The application for a review must be in writing and addressed to:

Chief Executive Officer
City of Vincent
244 Vincent Street
Leederville WA 6007

The application must be submitted no later than 6 months from the time the Applicant first becomes aware of the conduct (the subject of the application).

7.2 The application will be dealt with by the Chief Executive Officer who will consider any relevant material submitted by the applicant.

The review will be completed as soon as reasonably practicable and within 60 days from receipt of the application for review. Following completion of the review, the City of Vincent may do one or more of the following:

- (a) take no further action on the matter;
- (b) make a formal apology to the applicant;
- (c) take appropriate remedial action;
- (d) provide undertakings that the conduct will not occur again;
- (e) implement administrative measures to ensure that the conduct will not occur again; or
- (f) any combination of the above.

7.3 As soon as practicable within 14 days of the completion of the review, the City of Vincent will notify the applicant in writing of:

- (i) the findings and the reasons for those findings;
- (ii) any proposed action to be taken; and
- (iii) the right of the applicant to have those findings.

7.4 Refusing a Request

- (i) The City may deny a request for access if the Chief Executive Officer reasonably believes:
 - (a) it would pose a serious or imminent threat to the life or health of any person;
 - (b) the privacy of others would be unreasonably affected;
 - (c) the request is frivolous or vexatious;
 - (d) the information relates to existing legal proceedings with the person who is the subject of the information and would not be accessible through discovery;
 - (e) providing access would prejudice negotiations with the person who is the subject of the information by revealing the City's intentions regarding those negotiations;
 - (f) providing access would be unlawful or denying access is required or authorised by law;
 - (g) providing access would be likely to prejudice an investigation of unlawful activity or law enforcement, public revenue protection, prevention and remedying of seriously improper conduct, or preparation or conduct of court or tribunal proceedings, either by or on behalf of an enforcement body; or
 - (h) an enforcement body performing a lawful security function requests denial of access to protect national security.
- (ii) If the City refuses access, it will usually explain why.
Access may be by providing the individual with a copy of the information or by review of the information with the management at the City.

8. NATIONAL PRIVACY PRINCIPLE 7 – IDENTIFYERS

The City will generally not adopt Commonwealth Government identifiers, such as Tax File Number or Medicare Numbers for use as its own identifiers. If the City is required to collect a government identifier in providing services to individuals, it will not use this number to identify the individual.

9. NATIONAL PRIVACY PRINCIPLE 8 – ANONYMITY

Where requested and reasonably possible, the City will give individuals the option of dealing with the City anonymously.

10. NATIONAL PRIVACY PRINCIPLE 9 – TRANSBORDER DATA FLOW

This principle mainly relates to the transfer of information overseas and is not applicable to the activities of the City. However, the City will not disclose information, unless required by law.

11. NATIONAL PRIVACY PRINCIPLE 10 – SENSITIVE INFORMATION

The City will not collect ‘*Sensitive Information*’ about an individual, except where:

- (a) the collection is required by law or to establish, exercise or defend a legal or equitable claim; or
- (b) it is necessary to prevent or lessen a serious or imminent threat to the life or health of the person who is the subject of the information; or
- (c) it is legally required to assist in providing a wider range of services to the community.

12. CODE OF CONDUCT

Part 7 of the Council’s Code of Conduct outlines Council Member and Employee obligations in relation to “Access to Information”.

Date Adopted:	November 2010
Date Amended:	-
Date Reviewed:	-
Date of Next Review:	November 2015