

# Privacy and Data Protection Policy

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## Preamble

The *Privacy and Data Protection Act 2014* (Vic) (Act) governs the way in which Council needs to responsibly collect, handle and protect personal information and ensure data security.

This policy outlines the requirements for the capture and ongoing management of personal and health information and will set clear expectations for its appropriate use.

## Scope

This policy applies to all Council Employees, Councillors, Contractors and Volunteers. This policy applies to personal information and health information held by Council.

The data protection sections of the Act only applies to services contracted by Federal and State

Government bodies and does not apply to Council information at this stage.

## Policy objectives

- To responsibly manage any personal or health information Council handles;
- Provides a framework for the collection, use and disclosure of personal and health information of all individuals;
- Comply with the Act and the *Health Records Act 2001*;
- To ensure Council adheres to the Information Privacy Principles contained within the Act.

## Policy statement

Council is committed to protecting individual's right to privacy with the responsible and fair handling of personal and health information, consistent with the Act and the Health Records Act 2001.

### Information Privacy Principles

Council's Information Privacy Principles (Appendices 2); outline the way in which Council captures, manages, uses and discloses personal and health information in accordance with the Act.

### External Contractors

Council may outsource some of its functions to third parties (contractors). This may require the contractor to collect, use or disclose certain personal information. Council will take reasonable steps to ensure that contractors comply with the Act and this Policy in all respects.

### **Complaints**

If an individual feels aggrieved by Council's handling of his or her personal information, the individual may make a complaint to Council's Privacy Officer. The complaint will be investigated as soon as possible from date of receipt (but no later than 5 business days) and the person will be provided with a written response. Alternatively, the person may make a complaint to the Commissioner for Privacy and Data Protection.

### **Reference to other documents**

- *Privacy and Data Protection Act 2014 (Vic)*
- *Freedom of Information Act 1982*
- *Health Records Act 2001*
- *Electronic Transactions Act 2000 (Vic)*
- *Public Records Act 1973*

### **Review process**

This Policy is to be reviewed by Council every three years of it coming into operation or within 6 months of any changes to the Act.

Council may amend this Policy at any time.

### **Accountability process**

#### **Responsibilities:**

All Council Employees, Councillors, Contractors and Volunteers are responsible for adhering to and implementing this policy.

Adherence to the Act will be overseen by the Chief Executive Officer.

The Information Privacy Officer is responsible for the review of this policy and development of any associated procedures.

### **Approval**

Adopted by Council at its meeting on 24 June 2015

Signed by the Mayor, Cr Kimberley Brown



Dated 2 July 2015

## **Appendices I: Definitions**

Act	<i>Privacy and Data Protection Act 2014 (Vic)</i>
Personal information	Information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, other than certain health or generally available information.
Sensitive Information	Information or an opinion about an individual's racial or ethnic origin, political opinions, trade union membership, philosophical or religious beliefs, sexual preferences or criminal record.
Health Information	Information or opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual, but does not include information about an individual who has been deceased for more than 30 years.

## **Appendices 2: Information Privacy Principles**

### **1 - Collection**

Council will only collect personal information:

- a. Necessary for one or more of the council's legitimate functions or activities;
- b. By lawful and fair means and not in an unreasonably intrusive way;
- c. If reasonable and practicable, directly from the individual.

At or before the time of collection; Council will take reasonable steps to ensure the individual is aware of the reason for collection and to whom the information will be disclosed to.

### **2 – Use and Disclosure**

Council will only use personal information for the primary purpose for which it was collected.

Council will only use or disclose personal information for a “secondary purpose” in specified circumstances, if:

- The secondary purpose is related to the primary purpose of collection and use or disclosure is within the reasonable expectations of the individual;
- The individual has consented;
- The use or disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest, other than for publication in a form that identifies any particular individual;
- Reasonably believes the use or disclosure is necessary to lessen or prevent a serious or imminent threat to an individual's life, health, safety or welfare;
- Reasonably believes the use or disclosure is necessary to lessen or prevent a serious or imminent threat to public health, public safety or public welfare;
- The use or disclosure is required or authorised under law;
- The use and disclosure is required by Law Enforcement Agencies including ASIO and ASIS; and make a written record of the use or disclosure. This will be recorded in Council's document management system.

### **3 – Data Quality**

Council will take reasonable steps to ensure personal information is accurate, complete and up to date.

### **4 – Data Security**

Council will take reasonable steps to:

- Protect personal information from misuse and loss and from unauthorised access, modification or disclosure;
- Destroy or permanently de-identify personal information if it is no longer needed.

### **5 - Openness**

Council will have clearly expressed policies on the management of personal information that are readily available.

Council will, on request, take reasonable steps to let an individual know, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

## **6 – Access and Correction**

Council will provide access to information about an individual on request by that individual except in specified circumstances.

Council will take reasonable steps to correct information so that it is accurate, complete and up to date.

Council will provide reasons for denial of access or correction.

*[Note the Freedom of Information Act 1982 continues to apply to documents held by Council].*

## **7 – Unique Identifiers**

A "unique identifier" is a number assigned by an organisation to an individual to identify that individual for the purposes of the operations of the council but does not consist only of the individual's name.

Council will not:

- Assign unique identifiers unless necessary to carry out the council's functions efficiently;
- Adopt a unique identifier that has been assigned by another organisation unless necessary to carry out the council's functions efficiently, or with the consent of the individual or it is under an out-sourcing arrangement;
- Use or disclose a unique identifier assigned by another organisation unless necessary to fulfil the council's obligations to that other organisation or with the consent of the individual;
- Require an individual to provide a unique identifier in order to obtain a service unless required or authorised by law or in connection with the purpose for which the unique identifier was assigned.

## **8 - Anonymity**

Wherever lawful and practicable, individuals must have the option of not identifying themselves in transactions with a council.

## **9 – Transborder Data Flows**

Council will only transfer personal information outside Victoria in circumstances where the information will have appropriate privacy protection.

## **10 – Sensitive Information**

Sensitive information will not be collected unless:

- The individual has consented; or
- In accordance with other specified circumstances, such as the collection is necessary for research relevant to government funded targeted welfare or educational services.