

Title	Privacy and Health Records Policy
Description	A policy to ensure compliance with the Privacy and Data Protection Act 2014 and the Health Records Act 2001
Category	Governance
Type	Policy
Approval authority	Group Manager, Chief Executive's Office
Responsible officer	Senior Governance Advisor
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Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights of Responsibilities

1. Purpose

To articulate Council's policy in relation to compliance with the principles contained in the Privacy and Data Protection Act 2014 and the Health Records Act 2001.

2. Scope

This policy applies to officers and councillors of Yarra City Council, including Council contractors, consultants and volunteers.

Council believes that the responsible handling of personal and health information is a key aspect of democratic governance, and is strongly committed to protecting an individual's right to privacy. Accordingly, Council is committed to full compliance with its obligations under the Privacy and Data Protection Act 2014 and the Health Records Act 2001.

3. Definitions

Health Information means -

- (a) information or an opinion about—
 - (i) the physical, mental or psychological health (at any time) of an individual; or
 - (ii) a disability (at any time) of an individual; or
 - (iii) an individual's expressed wishes about the future provision of health services to him or her; or
 - (iv) a health service provided, or to be provided, to an individual - that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service; or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or

- (d) other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants

but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of this Act generally or for the purposes of specified provisions of this Act.

Personal Information means -

- (a) information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the Health Records Act 2001 applies.

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 professional or trade association; or
 - (vii) membership of a trade union; or
 - (viii) sexual preferences or practices; or
 - (ix) criminal record -

that is also personal information.

4. Policy

The Health Privacy Principles (HPPs) in the Health Records Act 2001 are similar to the Information Privacy Principles (IPPs) of the Privacy and Data Protection Act 2014. A description of Council's approach to each of the respective Information and Health Privacy Principles is outlined in the following section of this document.

4.1. Collection

IPP

Council will only collect personal information that is necessary for it to carry out its functions outlined in Schedule 1 of the Local Government Act 1989. In some circumstances, Council is required by law to collect personal information. Council will only collect sensitive information where you have consented or as otherwise permitted under legislation.

If it is reasonable and practicable to do so, Council will collect personal information directly from you. When doing so, it will inform you of the matters set out in the legislation, including the purpose(s) for which the information is collected and will use lawful and fair means. If Council collects personal information about you from a third party, it will take reasonable steps to make you aware of this.

HPP

Council only collects health information that is necessary for the performance of a function or activity and has the individual's consent or is required or permitted by law.

Council will only collect health information by lawful and fair means and not in any unreasonably intrusive way. Upon collection, Council will inform individuals of how to contact Council; how to access information; purpose for which information was collected; whom Council usually discloses the information of that kind; any law that requires Council to collect the information; and the main consequence (if any) for the individual if all or part of the information is not provided.

4.2. Use & Disclosure

IPP

Council will only use personal information within Council, or disclose it outside Council, for the purpose for which it was collected or a secondary related purpose in accordance with the Privacy and Data Protection Act (eg where you have consented or where you would reasonably expect this to occur).

HPP

Council only uses and discloses health information for the primary purpose for which it was collected or a directly related secondary purpose the person would reasonably expect. In any other circumstance Council will contact the individual in order to obtain consent (unless the use or disclosure is required by law or permitted by the Health Records Act).

4.3. Data Quality

IPP

Council will ensure that the personal information it collects, uses or discloses is accurate, complete and up to date.

HPP

Council will ensure that the health information it collects, holds or discloses is accurate, complete and up to date and relevant to its functions or activities.

4.4. Data Security

IPP

Council will endeavour to maintain a secure system for storing personal information. Information systems and operational policies and procedures are in place to protect personal information from misuse and loss from unauthorised modification or disclosure. Council will dispose of personal information where it is no longer necessary to fulfil the purposes for which the information was collected or as required by law.

HPP

Council will take steps to safeguard the health information it holds against misuse, loss, unauthorised access and modification. Where lawful, Council will take reasonable steps to destroy or permanently de-identify health information if it is no longer needed.

4.5. Openness

IPP & HPP

Council will provide a copy of this policy to any person who requests it.

4.6. Access and Correction

IPP & HPP

Individuals have a right to seek access and make corrections to personal or health information held by Council about them. All requests for access and correction should be made to the Privacy Officer on (03) 9205 5110.

4.7. Unique Identifiers

IPP & HPP

Council will only assign a number to identify a person if the assignment is reasonably necessary to carry out its functions efficiently.

Council will not use as an identifier for an individual a unique identifier that has been assigned by another organisation (such as a driver license number, Medicare number or Tax File Number) unless it is reasonably necessary to carry out its functions efficiently.

4.8. Anonymity

IPP & HPP

Where lawful and practicable, Council will give you the option of not identifying yourself when supplying information or entering into transactions with Council.

4.9. Transborder Data Flows

IPP & HPP

Council will only transfer personal or health information outside Victoria, if the organisation receiving it, is subject to laws substantially similar to the IPPs or HPPs.

4.10. Sensitive Information

IPP

Council will only collect sensitive information about an individual following consent of an individual, or where it is required under law or otherwise provided by.

4.11. Closure of the Practice of a Health Service Provider

HPP

If Council discontinues its health services it will give notice of the closure to past service users.

4.12. Making Information Available to Another Health Service Provider

HPP

Where Council acts as a health service provider, it will make health information relating to an individual available to another health service provider if requested to do so by an individual.

5. Provision of Services by External Parties

While personal and health information is usually handled by Council staff, Council may outsource some of its functions to third parties. This may require the service provider to collect, use or disclose certain personal or health information. Service providers are contractually obliged to comply with the requirements of either the Privacy and Data Protection Act 2014 or the Health Records Act 2001 respectively.

6. Change Management

When altering systems or processes that collect, store or transfer private information, Council staff are to have regard to the implications of the change on Council's compliance with this policy.

Depending on the extent of the change, staff may consider one or more of the following supporting steps:

- engaging with relevant internal stakeholders as part of the change management process (e.g. the Privacy Officer for altering processes involving private information, Access Yarra staff for changes to front line information management practices, and Information Services for related information system changes).
- ensuring Information Services staff are involved in the procurement of new systems or upgrades to existing systems.
- implementing training and operating procedures to support staff in implementing any changes to processes and procedures.

Where significant changes are being considered, staff should undertake a formal Privacy Impact Assessment, using the tools produced by the Victorian Commissioner for Privacy and Data Protection, in the *Privacy by Design* toolkit. These resources include a template for a Privacy Impact Assessment and are available on the Commissioners website at <https://www.cdpd.vic.gov.au/>.

7. Complaints

If you feel aggrieved by Council's handling of your personal or health information, you may make a complaint to Council's Privacy Officer on 9205 5110.

Your complaint will be investigated as soon as possible, but no later than five business days and you will be provided with a written response.

Alternatively, you may make a complaint to the Victorian Privacy Commissioner, by telephoning 1300 666 444 or the Victorian Health Services Commissioner by telephoning 1300 582 113. It should be noted that the respective Commissioner may decline to hear the complaint, if you have not first made a complaint to Council.

8. Breaches

Upon becoming aware of a breach or potential breach of the IPPs or HPPs, Council staff are to notify their direct supervisor without delay. Upon confirming that a breach has occurred, the direct supervisor shall notify both the relevant manager and Council's Privacy Officer.

In responding to a breach, Council's Privacy Officer shall be guided by advice provided by the Commissioner for Privacy and Data Protection in the guidelines *Responding to Privacy Breaches 2008*. This advice requires the completion of the following steps:

- (1) breach containment and preliminary assessment;
- (2) evaluation of the risks associated with the breach;
- (3) notification; and
- (4) prevention.

9. Related Documents

- Privacy and Data Protection Act 2014
- Health Records Act 2001