

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

19 September 2017

Agenda Item 8.3 Privacy Policy

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GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL12

Privacy Policy

Version 1.0

Adopted **Day Month Year**
Last Reviewed **Day Month Year**

| | |
|-----------------------------|--|
| Business Unit: | Corporate Governance |
| Responsible Officer: | Team Leader Governance |
| Approved By: | Chief Executive Officer |
| Next Review: | Within 12 months of a general election |

PURPOSE

The purpose of this policy is to provide guidance and advice on the way in which Greater Shepparton City Council (Council) will collect, hold, use and disclose personal and health information of individuals. The policy also details how individuals can gain access to their information or request the correct inaccuracies, in addition to outlining the complaint process for any potential breaches of privacy.

OBJECTIVE

With the enactment of the *Privacy and Data Protection Act 2014* (previously the *Information Privacy Act 2000*) and the *Health Records Act 2001*, Victorian councils are required to comply with the privacy principles set out in the Acts and adopt policies on the management and handling of personal and health information of individuals.

SCOPE

The Greater Shepparton City Council is committed to protecting an individual’s right to privacy and the responsible and fair handling of personal and health information, consistent with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*. This policy will apply to any person employed or engaged by Council, or to any individual who’s personal or health information is held by the Council.

Accordingly, Council will adhere to the Information Privacy and Health Privacy Principles when undertaking its statutory functions and activities, so that the privacy of individuals can be protected.

DEFINITIONS

| Reference term | Definition |
|-----------------------|---|
| Personal Information | 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 <i>Health Records Act 2001</i> applies |
| 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. |
| IPPs | Information Privacy Principles as outlined in the Privacy and Data Protection Act 2014. IPPs are a set of principles that regulate the handling of personal information. |
| HPPs | Health Privacy Principles as outlined in the Health Records Act 2001. HPPs are a set of principles that regulate the handling of health information. |
| Public Registers | Holds documents that are available for inspection by members of the public and contain information required or permitted by legislation, and is subject to the Public Records Act 1973 (Vic). |
| Sensitive Information | Personal information or an opinion about an individual’s: |

| Reference term | Definition |
|----------------|---|
| | <ul style="list-style-type: none"> • Race or ethnic origin; or • Political opinions; or • Membership of a political association; or • Religious beliefs or affiliations; or • Philosophical beliefs; or • Membership of a professional trade association; or • Membership of a trade union; or • Sexual preferences; or • Criminal record. |

POLICY

As part of the services provided to the community, the Council may hold personal information that is necessary for its function and activities. For example:

- Name, address, property, bank account and other financial details of residents and ratepayers for undertaking its rating and valuation services, town planning and building statutory functions and other property related services and enforcement activities.
- Name, address and contact details of individuals who contact Council with respect to requests or complaints related to Council services.
- Age, occupation, physical disabilities, health related and other sensitive information of individuals receiving Council services related to Child care, Maternal and Child Health including immunisation, Pre-school, Youth, Family, Leisure and Aged Care.
- Personal information of employees and contract service providers, relevant to their employment or contract with Council.
- In some instances, personal information is contained on a public register (such as for planning and building permits, food premises and animal registration databases).

Collection of Information:

Council will collect personal information lawfully and fairly, in a number of ways, including:

- directly from the individual, where practicable, such as via an application form or correspondence or in response to a request from Council;
- from third parties, such as contracted service providers, health service providers or the individuals authorised representatives or legal advisers;
- from publicly available sources of information; and/or
- when legally required to do so.

So far as it is practicable to do so, Council will collect personal information about an individual directly from that individual. If Council collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is made aware of this.

Council will not collect sensitive or health related information unless:

- the individual has consented;
- it is required by law;
- it is necessary to prevent or lessen a serious and imminent threat to the life, health or safety of an individual or the public;
- it is necessary for the establishment, exercise or defense of a legal claim;
- it is necessary for research, compilation and analysis of statistics relevant to government funded community programs; or
- it is otherwise permitted by the Privacy Laws.

Council will take reasonable steps to retain confidentiality of any health information given in confidence about an individual, by another person or a health service provider, in relation to the provision of care or health services to the individual.

Upon collection Council will inform the individual:

- why the information is being collected;
- to whom the information may be disclosed to and why;
- any law that requires Council to collect the information;
- the consequences for the individual if all or part of the information is not collected;
- and
- the fact that he/she is able to gain access to the information

Council will generally only collect personal information about a child under the age of 18 with the consent of the child's parent or guardian.

However in certain circumstances Council may exercise discretion in obtaining parental/guardian consent for the collection of a young person's information where parental/guardian involvement may hinder the delivery of services to a young person.

Use and Disclosure:

Council will only use personal information for the primary purpose for which it was collected (for example, levying rates, billing, collection of debts, property valuation, town planning and building approvals, provision of family services, community services, animal management services, and waste management services, enforcement activities and asset management).

Council may also use personal information for any related purposes the individuals would reasonably expect the Council to use or disclose the information to, or where the individual has consented to the use or disclosure.

The information may be disclosed:

- to Council's contracted service providers who manage the services provided by Council, including but not limited to garbage collection, meal preparation for aged care services, management of leisure centres, management of pre-schools, environmental health inspections and infrastructure maintenance. Council requires these service providers to maintain the confidentiality of the information and to comply with the privacy principles when doing so.

- to Water Authorities for the purposes of ensuring that data held by both is maintained as correct and up-to-date as possible;
- in connection with the investigation of complaints or alleged unlawful activity;
- to individuals for the purpose of serving a notice to fence as required by the Fences Act;
- to the Victorian Electoral Commission and Australian Electoral Commission for compilation of the Voters Rolls;
- to Statutory Bodies (e.g. Centrelink, Child Support Agency, Department of Health & Human Services, Department of Education & Training, Transport Accident Commission and WorkCover) for purposes required by relevant legislation
- to Statutory Bodies (e.g. VicRoads, AGL) for the purposes of targeted consultation processes on major projects that could affect residents;
- to the Australian Immunisation Register (AIR) for the purposes of registering vaccinations
- to Police, Fire Department or SES for emergency or law enforcement purposes;
- where appropriate under another Act, including the *Freedom of Information Act 1982* (Vic);
- for public registers that need to be maintained in accordance with other Acts, as a release of information relevant for the purpose for which the registers exist;
- an individuals authorised representatives, health service providers or legal advisers;
- to Council's professional advisers, including accountants, auditors, insurers, bankers, valuers, debt collection agents, IT providers and lawyers;
- to organisations assisting Council to perform statistical analyses for improving the services being delivered to the community. However, where practicable and reasonable, steps will be taken to de-identify the information in these circumstances;
- to an immediate family member of the individual, for emergency reasons or if it is necessary to provide the appropriate care or health service to the individual;
- to housing support agencies to assist in the finding of alternative accommodation in cases of emergency;
- to building permits and plans to property owners and the Victorian Building Authority;
- to the Lost Dogs Home, RPSCA and Australian Animal Registry for animal management purposes; and
- to recipients outside Victoria, only if they are governed by substantially similar Privacy Laws or the individual has consented to the transfer or would be likely to give it, if it was practicable to obtain that consent.

Personal information provided as part of a public submission to a Council or Committee Meeting may be included with the published agenda papers and minutes of the meeting which are displayed online and available in hardcopy for inspection.

Council public registers are available for inspection and in some instances are available online.

In the case of health information in particular, Council may disclose health information about someone:

- if Council is providing a health service to them and it is necessary to be able to provide that service;
- where the person is incapable of providing consent and it is not reasonably practicable to obtain the consent of an authorised representative or the person does not have such an authorised person.

Council may also disclose health information about an individual to an immediate family member if Council believes that the disclosure is necessary to provide appropriate health services to care for the individual and:

- the individual is incapable of giving consent; and
- disclosure is not contrary to any wish expressed by the individual before they became incapable of giving consent; and
- the immediate family member who has requested the information is over 18 years of age or has sufficient maturity to receive the information.

In some circumstances Council may disclose health information about someone for a secondary purpose, if Council knows, or suspects, that the person is deceased, missing or has been involved in an accident and is therefore incapable of consenting. This disclosure may occur in situations where it is reasonable to identify the person, or to identify and locate an immediate family member so that the police, a coroner, or other prescribed organisations can contact them.

If an individual requests a Council operated Health Service Provider to make health information relating to them available to another Health Service Provider, or that person authorises another Health Service Provider to request the health information from Council, Council will provide a copy or written summary, of that health information to that other Health Service Provider as soon as practicable. A fee may be payable in these circumstances.

Quality and Security:

Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that the information is relevant, and to the extent necessary, accurate, complete and up-to-date for the purpose for which it is to be used.

Council will endeavour to maintain a secure system for storing personal information and will utilise appropriate technologies, security methods, operational policies and procedures to protect the information from unauthorised access, improper use, alteration, unlawful or accidental destruction and accidental loss.

All personal and health information will be retained in accordance with the Health Records Act 2001, the Public Records Act 1973 and/or Public Record Office Victoria requirements.

Access and Correction:

- Individuals may request access to their personal and health information. Such requests are generally managed under the Freedom of Information Act 1982 (and the Health Records Act 2001 where relevant). Please contact the Governance Compliance Officer in the first instance to discuss your requirements.
- Council may charge an access fee for recovering the costs of retrieving the required personal information.
- If an individual is able to establish that the personal information is inaccurate, incomplete or out-of-date, the Council will take reasonable steps to correct the information.
- If access or correction of the personal or health information needs to be denied, as required by law or relates to legal proceedings, or the release would pose a serious

threat to the life or health of any person, or is classified as confidential information, the Council will give the individual the reasons for that decision as soon as practicable, within the prescribed period outlined under the Freedom of Information Act 1982 (currently 45 days).

- In the event that Council and an individual disagree about the veracity of the personal or health information held by Council, Council will take reasonable steps to record a statement relating to the disputed information, if requested by the individual.

Transfer of Data

The Council will only transfer personal or health information in accordance with the provisions outlined in the Privacy and Data Protection and Health Records Acts. Council will ensure data security by only transferring information by means of:

- registered mail
- a secured electronic method that has been reviewed and approved by the Information Management department.

Sensitive Information

The Council will not collect sensitive information unless an individual has consented or collection is required or permitted by law, or when necessary for research or statistical purposes as permitted under the Privacy and Data Protection Act.

Council employees who use social media are required to adhere to the Media Policy which is accessible on Council's website.

COMPLAINTS

An individual may lodge a complaint with the Council's Governance Compliance Officer regarding the handling of personal and health information.

Council will investigate the complaint as soon as possible and provide a response within 10 working days. Such a response may be of an interim nature if the time is insufficient to provide a detailed response.

Alternatively, individuals may lodge a complaint with the Victorian Information Commissioner with respect to personal information, or the Health Services Commissioner for health information, about a Council act or practice that may be an interference with their privacy. However, the Commissioners may decline to entertain the complaint, if the complainant has not first lodged the complaint with Council.

Victorian Information Commissioner**Phone:** 1300 666 444**Email:** enquiries@cpdp.vic.gov.au**Health Service Commissioner****Phone:** 1300 582 113**Email:** hsc@dhhs.vic.gov.au**FURTHER INFORMATION**

Copies of this policy are readily available from the Council office. Further information with respect to Councils Privacy Policy and its handling of personal and health information can be obtained from the Governance Compliance Officer.

The Governance Compliance Officer may be contacted as follows:

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| Direct telephone: | (03) 58329897 |
| Council's telephone: | (03) 58329700 |
| Email address: | council@shepparton.vic.gov.au |
| Postal address: | Governance Compliance Officer Greater Shepparton City Council Locked Bag 1000 SHEPPARTON VIC 3631 |

RELATED POLICIES AND PROCEDURES

- Media Policy
- Information and Records Management Policy
- Freedom of Information Policy

RELATED LEGISLATION

- Local Government Act 1989
- Privacy and Data Protection Act 2014
- Health Records Act 2001
- Freedom of Information Act 1982
- Public Records Act 1973

REVIEW

The Team Leader Governance is to review the Privacy Policy after each general election of the Council in conjunction with the Executive Leadership Team.

Suggested revisions are to be submitted to Council for consideration.

Peter Harriott
Chief Executive Officer

Date

ATTACHMENTS

Appendix 1 – Information Privacy Principles

Appendix 2 – Health Privacy Principles

Appendix 1 - Information Privacy Principles

IPP 1 - Collection

Collect only personal information that is necessary for the performance of functions, for a pre-determined purpose. Collect lawfully, fairly and not unreasonably intrusively. Advise individuals that they can gain access to their personal information.

IPP2 - Use and Disclosure

Use and disclose personal information for the primary purpose for which it was collected, or a related purpose a person would reasonably expect; otherwise, use and disclosure can only occur with consent. There are exemptions to disclosure restrictions, e.g. law enforcement, life-threatening emergencies.

IPP 3 – Data quality

Make sure personal information is accurate, complete, and up-to-date.

IPP 4 – Data Security

Take reasonable steps to protect personal information from misuse, loss, unauthorised access, modification or disclosure. Personal information will be maintained in accordance with disposal schedules of the *Public Records Act 1973*.

IPP 5 – Openness

Organisations must set out in a document clearly expressed policies on the management of personal information and provide the policies to anyone who asks.

IPP 6 – Access and Correction

Individuals have a right to seek access to their personal information and make corrections. Most requests for access and correction are handled under the Victorian *Freedom of Information Act 1982*.

IPP 7 – Unique identifiers

A unique identifier is usually a number assigned to an individual in order to identify the person for the purpose of an organisation's operations, e.g. tax file no., driver's license number. Unique identifiers can facilitate data matching, and this can in turn diminish privacy. So this IPP limits the assignment, adoption, and sharing of unique identifiers

IPP 8 - Anonymity

Give individuals the option of not identifying themselves when entering transactions, if that is lawful and feasible.

IPP 9 – Transborder data flows

Personal information can only be transferred if certain conditions are met. Consent is one condition. Another condition is that the destination must have privacy standards similar to Victoria's IPPs.

IPP 10 - Sensitive information

Collection of sensitive information is tightly restricted. This includes information or opinion about an individual's: political views; religious beliefs; sexual preferences; membership of groups (e.g. unions, political groups); racial or ethnic origin; or criminal record.

Appendix II - Health Privacy Principles

HPP 1 - Collection

Collect only health information that is necessary for the performance of functions, for a pre-determined purpose. Collect lawfully, fairly and not unreasonably intrusively. Advise individuals that they can gain access to their health information.

HPP 2 - Use and Disclosure

Use and disclose health information for the primary purpose for which it was collected, or a related purpose a person would reasonably expect; otherwise, use and disclosure can only occur with consent. There are exemptions to disclosure restrictions, e.g. law enforcement, life-threatening emergencies.

HPP 3 – Data quality

Make sure health information is accurate, complete, and up-to-date.

HPP 4 – Data Security and Data Retention

Take reasonable steps to protect health information from misuse, loss, unauthorised access, modification or disclosure. Health information will be maintained in accordance with disposal schedules of the *Public Records Act 1973*.

HPP 5 - Openness

Organisations must set out in a document clearly expressed policies on the management of health information and provide the policies to anyone who asks.

HPP 6 – Access and Correction

Individuals have a right to seek access to their health information and make corrections. Most requests for access and correction are handled under the Victorian *Freedom of Information Act 1982*.

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A unique identifier is usually a number assigned to an individual in order to identify the person for the purpose of an organisation's operations, e.g. tax file no., driver's license number. Unique identifiers can facilitate data matching, and this can in turn diminish privacy. So this HPP limits the assignment, adoption, and sharing of unique identifiers.

HPP 8 - Anonymity

Give individuals the option of not identifying themselves when entering transactions, if that is lawful and feasible.

HPP 9 – Transborder data flows

Personal information can only be transferred if certain conditions are met. Consent is one condition. Another condition is that the destination must have privacy standards similar to Victoria's HPPs.

HPP 10 - Transfer/closure practice

If the practice or business of a health provider is sold or transferred or if the provider is deceased, steps must be taken to notify individuals who have received health services from the provider.

HPP 11 - Making information available to another service provider

An individual can request that a service provider make information relating to them available to another service provider.