



# Privacy Policy

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<b>Responsible officer</b>	Chief Executive Officer
<b>Policy owner</b>	Manager Legal and Governance

## 1. Purpose

Council acknowledges and believes that the responsible handling of personal and health information is a requirement of law and is a key aspect of democratic governance. Council 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* (Vic) and the *Health Records Act 2001* (Vic) and any other relevant legislation. In particular, Council will comply with the Information Privacy Principles and Health Privacy Principles contained in these Acts. This policy reflects that.

This policy applies to both personal information and health information held by Council.

## 2. Scope

Applies across Council and in relation to Council’s interaction with the public.

## 3. Definitions

Word/Term	Definition
Personal Information	is defined in the <i>Privacy and Data Protection Act 2014</i> . The definition may change from time to time. The current definition is:  <i>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</i>
Health Information	is defined in the <i>Health Records Act 2001</i> . The definition may change from time to time. The current definition is:  (a) <i>information or an opinion about:</i>  (i) <i>the physical, mental or psychological health (at any time) of an individual, or</i>  (ii) <i>a disability (at any time) of an individual, or</i>  (iii) <i>an individual's expressed wishes about the future provision of health services to him or her, or</i>

Word/Term	Definition
	<p>(iv) a health service provided, or to be provided, to an individual (identifying or potentially identifying, recorded)- that is also personal information; or</p> <p>(b) other personal information collected to provide, or in providing, a health service;</p> <p>(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</p> <p>(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.</p> <p>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 provision of this Act.</p>
Sensitive Information	<p>is defined in the <i>Privacy and Data Protection Act 2014</i>. The definition may change from time to time. The current definition is:</p> <p>“...information or an opinion about an individual’s-</p> <p>(a) racial or ethnic origin; or</p> <p>(b) political opinions; or</p> <p>(c) membership of political association; or</p> <p>(d) religious beliefs or affiliations; or</p> <p>(e) philosophical beliefs; or</p> <p>(f) membership of a professional or trade association; or</p> <p>(g) membership of a trade union; or</p> <p>(h) sexual preferences or practices; or</p> <p>(i) criminal record-</p> <p>that is also personal information.”</p>
Consent	means express or implied consent.

## 4. Policy

Council will apply the relevant law, that is, the provisions of the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic), collectively referred to in this Policy as “the Privacy Laws”.

### 4.1 Personal Information – Examples

This Policy applies to Personal Information held by Council. For example, Council holds Personal Information on its local citizens and ratepayers, such as names and addresses, in order to carry out its functions like planning, building, valuation, community and property services. Personal information may also include date of birth, motor vehicle registration and credit card details.

Council may also request Personal Information in order to provide a service, such as education, welfare, child care or other community services.

In some instances, Personal Information may be contained on a public register (such as the register of building permits, register of food premises and animal registration details).

However, to the extent that personal (or health) information is available on a generally available publication, such as a public register, Council's handling of that information is not governed by the *Privacy and Data Protection Act 2014*.

#### **4.2 Sensitive Information – Examples**

Council may also hold Sensitive Information. Sensitive Information includes 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. For example, Council may collect information on religious beliefs in providing a Meals on Wheels service to ensure the provision of meals are appropriate to a person's faith, and may undertake a criminal record check if you apply for employment with Council.

#### **4.3 Health Information – Examples**

This Policy also applies to Council's handling of Health Information. Health Information includes information about the physical, mental or psychological health, or disability of an individual. It also includes information collected to provide a health service to an individual such as a disability or aged care service, immunisation service or maternal health care service, including an individual's expressed wishes about the future provision of health services.

#### **4.4 Collection**

Council will only collect Personal, Sensitive and Health Information that is necessary for its functions and activities. In some instances, Council is required by law to collect this information. Council will only collect Sensitive Information and Health Information where you have consented or as required, authorised or permitted under the Privacy Laws or another law.

Council will collect Personal, Sensitive and Health Information only by lawful and fair means. If it is reasonable and practicable to do so, Council will collect Personal, Sensitive and Health Information about you directly from you. When doing so, it will take reasonable steps to inform you of the matters set out in the Privacy Laws, including the purpose/s for which the information is collected, how you can gain access to the information, to whom the information may be disclosed, any law that requires the information to be collected and the consequences if the information is not provided.

If Council collects this information about you from someone else, it will take reasonable steps to make you aware of this, unless doing so would, in Council's opinion, pose a serious threat to the life or health of any individual.

Council may collect Personal, Sensitive and Health Information about you from others, such as contracted service providers, emergency services or health service providers and from publicly available sources of information or pursuant to other laws which permit information sharing under certain specific and limited circumstances.

#### **4.5 Use and Disclosure**

Council will use Personal, Sensitive or Health Information for the primary purpose for which it was collected (for example, levying rates, billing, town planning and building approvals, and the provision of family services and community services). Council may also use Personal, Sensitive or Health Information for related or (in the case of Sensitive and Health Information) directly related purposes you would reasonably expect, where you have consented, for law enforcement purposes and in any other circumstances permitted by the Privacy Laws or any other law which applies.

The Personal, Sensitive and Health Information may also be used or disclosed in these circumstances. For example, it may be used or disclosed:

- to Council's contracted service providers who manage services on Council's behalf, such as garbage collection and leisure centres.
- to government departments and agencies (such as the Department of Education and Training, the Department of Health and Human Services, the Victorian Building Authority, VicRoads, WorkCover and Centrelink) for their statutory purposes, if required or authorised by law.
- to water, gas and electricity utilities for the purposes of ensuring data is accurate, if required or authorised by law.
- to the Police, Fire and Emergency Services for emergency, public safety or law enforcement purposes, if required or authorised by law.
- to integrity agencies, such as the Local Government Investigations and Compliance Inspectorate, the Independent Broad-based Anti-Corruption Commission, and the Victorian Information Commissioner for their statutory purposes, if required or authorised by law.
- Council is also required to maintain a number of public registers, which include Personal Information, such as: election campaign donation returns received from candidates in Council elections.
- register of all planning permit applications and all decisions and determinations relating to permits.

#### **4.6 Quality and Security**

Council will take reasonable steps to ensure the Personal, Sensitive and Health Information it holds is accurate, complete and up to date for the purpose for which it is to be used. If your details change, you are encouraged to contact Council so that its records can be updated.

Council will maintain a secure system for storing your Personal, Sensitive and Health information. Technological and operational policies and procedures are in place to protect information from misuse and loss and from unauthorised modification or disclosure.

Council will destroy or permanently de-identify Personal, Sensitive or Health Information where it is no longer necessary to fulfil the purposes for which the information was collected or as permitted or required by law having regard to its obligations under the *Public Records Act 1973*.

#### **4.7 Access and Correction**

Should you wish to access your personal information (including health information), please contact Council's Privacy Officer on 9747 5367. The *Freedom of Information Act 1982* will then apply.

Requests to access your personal information must be made in writing and addressed to the Freedom of Information Officer, [foi@melton.vic.gov.au](mailto:foi@melton.vic.gov.au). You must state as precisely as possible what document containing your personal information is sought.

If you believe that your information is inaccurate, incomplete or out of date, you may request Council to correct it. Your request will be dealt with in accordance with the law.

#### **4.8 Anonymity**

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

#### **4.9 Obligations and Health Service Provider**

Where Council is providing health services, it will meet its privacy obligations in relation to making health information available to other health service providers, and notifying the public of any closure or transfer of its practices.

#### 4.10 External Contractors

While Personal, Sensitive and Health Information is usually handled by Council staff, Council may outsource some of its functions to third parties. This may require the contractor to collect, use or disclose certain information (e.g. garbage collection). Council believes that the provision of information to contractors from time to time as necessary to perform its function is for the primary purpose of collection, or is a related secondary purpose which you would reasonably expect it to do. Council requires all of its service delivery contractors to comply with the Privacy Laws.

#### 4.11 CCTV

Council may use closed-circuit television (CCTV) in and around Council buildings for safety and security, where this is considered necessary, but never in bathrooms, toilets, change rooms and the like.

CCTV cameras may capture personal information such as images that identify individuals. Any footage that captures personal information will be handled in accordance with the Privacy Laws. Refer to Council's CCTV Policy and CCTV (Asset and Facility) Operating Procedure for information on how Council uses, monitors and collects CCTV footage

<https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies>

#### 4.12 Planning Applications and Objections

Council is required by the *Planning and Environment Act 1987* to make available for inspection, for a prescribed period of time, planning permit applications, including the plans and personal information such as the applicant's name, address and telephone number, and the landowner's name.

Where there is a current application for a planning permit, Council is also required by the *Planning and Environment Act 1987* to make a copy of every objection available to any person wishing to inspect the file until the end of the period during which an application may be made for review of a decision on the application. Copies of objections may also be provided during this period. These documents will be made available for public viewing, either in person at the Melton Civic Centre or both electronically on Council's website and in person on request at the Melton Civic Centre. In making the document available on Council's website, Council is required to remove the personal information of the following persons, unless consent is provided:

- planning permit applicants
- planning permit amendment applicants
- people who have made submissions or objections

These arrangements may be amended from time-to-time in response to changes to legislative requirements.

#### 4.13 Submissions pursuant to section 223 of the Local Government Act 1989

Personal information provided as part of a submission, petition or question to a Council or Committee meeting, including submissions made pursuant to section 223 of the *Local Government Act 1989*, may be included with the published agenda papers and minutes of the meeting, which are available on Council's website.

#### 4.14 Public Transparency Policy

Under s 58 of the *Local Government Act 2020*, Council is required to make Council information publicly available unless the information is confidential, within the meaning of the *Local Government Act 2020*, or public availability would be contrary to the public interest.

Council's Public Transparency Policy give effects to the public transparency principles in the *Local Government Act 2020*, describes the ways in which Council information will be made publicly available, specifies which Council information will be made publicly available as a matter of course, and describes the categories of Council information that may be unavailable to the public.

For example, under that policy, documents containing your personal information may be made available on Council's website or upon request, unless this would result in the unreasonable disclosure of personal affairs information or where the Chief Executive Officer determines that release would be contrary to the public interest. As a matter of course, requests for documents containing your personal affairs information will be handled in accordance with the *Freedom of Information Act 1982*. Alternatively, these documents may be released to you informally at the discretion of the Freedom of Information Officer on the approval of the Chief Executive Officer. This would be done in accordance with Council's Public Transparency Policy.

Council's Public Transparency Policy can be accessed here: <https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies>

### Tax File Numbers

Council holds tax file number (TFN) information about its employees. Under the Notifiable Data Breach Scheme, contained in Part IIIC of the Commonwealth *Privacy Act 1988*, Council is required to notify the Office of the Australian Information Commissioner (OAIC) and affected individuals if there has been an 'eligible data breach' of TFN information. An eligible data breach occurs when there is loss of, unauthorised access to, or unauthorised disclosure of, Personal, Sensitive or Health information, which is likely to result in serious harm, and remedial action has not been taken to prevent such risk of harm.

Council is not otherwise directly subject to the Commonwealth *Privacy Act 1988*. However, Council may at times agree to be bound by this Act (for example, where it receives funding under a Commonwealth program).

### 4.15 Website Privacy Statement

Council has a specific Privacy Statement that applies to its website, which can be accessed here <https://www.melton.vic.gov.au/Council/About-Council/Privacy/Website-privacy-statement>.

### 4.16 Complaints

If you feel aggrieved by Council's handling of your Personal, Sensitive or Health Information, you may make a complaint to Council's Privacy Officer on 9747 5367. Your complaint will be investigated as soon as possible (and acknowledged no later than five business days) and you will be provided with a written response. Alternatively, you may make a complaint to the Victorian Information Commissioner (in respect of personal information generally) or the Health Complaints Commissioner (in respect of health information) (although the Commissioners may decline to hear the complaint if you have not first made a complaint to Council).

## 5. Responsibility

<b>5.1</b>	<b>Privacy Officer (role currently also held by Manager Legal and Governance)</b>
	<ul style="list-style-type: none"> <li>Responsible for advising Councillors and officers in privacy matters and taking privacy complaints.</li> </ul>
<b>5.2</b>	<b>Freedom of Information Officer (role currently also held by Manager Legal and Governance)</b>
	<ul style="list-style-type: none"> <li>Responsible for dealing with a request to access or obtain copies of documents.</li> </ul>
<b>5.3</b>	<b>All council officers</b>
	<ul style="list-style-type: none"> <li>Are responsible for compliance of the requirements of this policy. Non-compliance may result in criminal charges or civil action.</li> </ul>

## 6. References and links to legislation and other documents

Name	Location
<i>Freedom of Information Act 1982 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Health Records Act 2001 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Local Government Act 1989 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Privacy and Data Protection Act 2014 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Public Records Act 1973 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Local Government Act 2020 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
<i>Planning and Environment Act 1978 (Vic)</i>	Available via <a href="http://www.legislation.vic.gov.au">www.legislation.vic.gov.au</a>
CCTV (Assessment and Installation) Policy	Available via <a href="https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies">https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies</a>
CCTV (Asset and Facility) Operating Procedure	Available via <a href="https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies">https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies</a>
Public Transparency Policy	Available via <a href="https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies">https://www.melton.vic.gov.au/Council/Publications/Documents-Reports-Strategies</a>