

Privacy Policy	
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Adopted by	Council
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Responsible officer	Head of Governance
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1. Purpose

This Policy outlines how Council will ensure compliance with the Privacy and Data Protection Act 2014 (PDP Act) and the Health Records Act 2001 (HR Act).

Council believes that the responsible handling of personal information is a key aspect of democratic governance and is strongly committed to protecting an individual's right to privacy.

Council is committed to ensuring that personal information collected, held or disposed of by the organisation is managed in a responsible manner and in accordance with the Information Privacy Principles (IPPs) incorporated within the PDP Act and the HR Act.

In achieving these objectives, Council will:

- balance the public interest in the transparency and accessibility of Council information with the public interest in protecting the privacy of personal information.
- promote the responsible and transparent handling of personal information.

2. Application And Scope (refer to IPP5)

This Policy applies to all Councillors, Council staff and any persons undertaking duties on Council's behalf, including Committee Members. Council staff includes full-time, part-time, casuals and temporary employees as well as volunteers, contractors and consultants whilst engaged by Council.

This Policy details Council's management of personal information. It can be downloaded from Council's website or a copy can be obtained via email to legalservice@melton.vic.gov.au attention of Council's Privacy Officer.

3. Council Functions

The Local Government Act 2020 states that the role of a council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. In support of this role, priority is to be given to achieving the best outcomes for the community, including future generations.

In seeking to achieve its primary role, Council manages a broad range of functions and services which facilitates Council's mission to enhance the social, economic and environmental prosperity of our community through vision, leadership, excellence and inclusion. Functions and services of Council include, but are not limited to:

1. Animal management
2. Arts and cultural programs
3. Business and trade development
4. Capital works and maintenance of parks and gardens, roads, pedestrian ways, and public spaces of the city
5. Community health services
6. Environment and water management
7. Financial planning, budgets, valuations, rates and credit control
8. Food safety and regulation of food premises
9. IT infrastructure
10. Land transfers and subdivisions
11. Library services
12. Marketing of the city and coordination of events
13. Maintenance of council-owned facilities, property and other assets
14. Management of parks, gardens and sporting facilities and services
15. Public safety
16. Recycling and waste management
17. Regulation of parking and traffic
18. Regulation of filming, trading and other activities in the streets
19. Services for children, youth, aged people and people with disabilities
20. Social planning and housing
21. Tourism
22. Urban planning and building regulation

In order to effectively provide these services and functions, Council may require access to personal and sensitive information. This Policy outlines how that personal and sensitive information will be managed.

4. General Provisions

4.1. Collection (refers to IPP 1)

When collecting personal or health information, Council will take reasonable steps to advise the individual of what information is being sought, for what purpose, whether any law requires the collection of the information and the main consequences, if any, of not providing the information.

It is acknowledged that some of the information collected by Council is not voluntary and is mandated by law.

Council will only collect personal and health information that is necessary for its functions and activities; and will do so in a lawful, fair and non-intrusive manner. Typical information collected includes details from:

- a) Information from Councillors, Council officers and volunteers as part of their role with Council;
- b) Property ownership e.g. ratepayer
- c) Planning and building permit applications

- d) Food premises, animal and wastewater registrations
- e) Correspondence from the public, enquiries, submissions, surveys and complaints
- f) Home and community care recipients
- g) Insurance claims
- h) Maternal and Child Health services
- i) Childcare services.

Council will only collect sensitive information where consent has been given or as permitted or required by law.

Under normal circumstances, Council will collect personal information about an individual directly from that individual. However, if Council collects personal information about an individual from someone else, Council will take reasonable steps to ensure that individual is informed of that collection.

A unique identifier is a number or code applied to someone's record to assist with identification (similar to a driver's license number). Council will only assign a unique identifier to a person if that assignment is reasonably necessary to carry out its functions efficiently.

Individuals will have the option of remaining anonymous when supplying information or entering into transactions with Council whenever lawful and practicable. It is acknowledged, however, that many transactions with Council cannot, under law, remain anonymous.

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

4.2. Use and Disclosure (refers to IPP 2)

Council staff are provided with the information necessary for them to carry out their authorised functions and activities. Staff members are required to handle all personal and health information with discretion and to comply with the provisions of the PDP Act.

Council will only use or disclose personal and health information for the purpose for which it was collected; another legally authorised purpose under the privacy laws; with an individual's consent or for a secondary purpose, where both of the following apply:

- a) The secondary purpose is related to the primary purpose of collection; and
- b) The individual would reasonably expect the organisation to use or disclose the information for the secondary purpose.

Information collected for the purpose of providing education, welfare and other community support services may be shared with other organisations for the purpose of providing such services. 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.

Council does outsource some of its functions to third party contractors. Information will only be disclosed as necessary to allow them to carry out their authorised functions and activities, and all contractors will be required to comply with privacy law in all respects. Legally prescribed information will be contained on public registers, e.g. register of building permits, food premises and animal registration details.

4.3. Data Quality and Security (IPP 3, IPP 4 and IPP 9)

Council will take reasonable steps to ensure the information it holds is accurate, complete and up to date. Where possible, accuracy of personal or health information will be checked before it is used for the purpose for which it is to be used. If an individuals details change, they are encouraged to contact Council so that its records can be updated.

A number of procedural, physical, software and hardware safeguards, together with access controls, secure methods of communication, back-up and disaster recovery systems are used to protect information from misuse and loss, unauthorised access, modification and disclosure.

Generally, information is destroyed or permanently de-identified when it is no longer required. However, information held by Council is subject to the Public Records Act 1973 and is required to be disposed of or retained under the relevant Retention & Disposal Authority.

The PDP Act does not prohibit the transfer of personal information outside of Victoria but it does place restrictions on when this can occur. Council will only transfer personal or health information outside of Victoria in accordance with the provisions of the PDP Act or the HR Act. Council may use cloud computing services outside of Victoria in which case Council must ensure compliance with the Victorian IPPs and HPPs in engaging with those services. Generally, Council will not send personal or health information outside Victoria without obtaining consent.

4.4. Access and Correction (IPP 6)

Individuals have the right to seek access to their personal and health information and make corrections.

Should an individual wish to access their personal information (including health information), a request must be forwarded to Council's Privacy Officer by email at legalservices@melton.vic.gov.au.

Requests for access to information can also be made pursuant to the *Freedom of Information Act 1982* (Vic). Please refer to Council's [Freedom of Information webpage](#) for more information.

4.5. Anonymity (IPP 8)

Wherever it is lawful and practicable, individuals must have the option of not identifying themselves when entering into transactions with Council. However, some Council services can only be provided if the person accessing the service is prepared to be identified due to practical and legal requirements. It is also noted that if you do not identify yourselves this may limit Council's ability to provide a service to you, or complete the transaction you have requested. We also may not be able to provide further updates on your request.

5. Privacy Act 1988 (Cth)

Council holds tax file number (TFN) information about its employees. This gives rise to obligations under the Commonwealth Privacy Act 1988.

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).

6. Website Privacy Statement

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

7. Complaints

Complaints relating to privacy are handled by Council's Privacy Officer via legalservices@melton.vic.gov.au Complaints will be investigated in accordance with Council's Complaints Management Policy.

If an individual is not satisfied with the way in which a complaint is managed by Council, a formal complaint can be made to the Office of the Victorian Information Commissioner (OVIC), or the Health Complaints Commissioner.

OVIC has oversight of Council's collection, use and disclosure of information generally. The functions of OVIC, and the Privacy and Data Protection Commissioner are set out in the Freedom of Information Act 1982 (FOI Act) and the PDP Act.

Complaints can also be made via secure online web form; in writing to PO Box 24014, Melbourne Vic 3001; or via telephone 1300 666 444.

More information is available on the OVIC website <https://ovic.vic.gov.au/>

The Health Complaints Commissioner is an independent organisation that resolves complaints about healthcare and the handling of health information in Victoria.

Complaints can be made via secure online web form or by telephone 1300 582 113.

More information is available on the Health Complaints Commissioner website www.hcc.vic.gov.au

8. Definitions

Term	Definition
Consent	<p>Has the same meaning as the PDP Act:</p> <p>Consent refers to express and implied consent.</p> <p>Express consent is where the individual has stated they provide consent for the specific purpose outlined by Council.</p> <p>Implied consent can be obtained where consent can reasonably and objectively be inferred from a person's conduct or actions.</p> <p>The elements of consent are capacity, voluntary, current, informed, and specific.</p> <p>Specific requirements for consent can depend on the context in which personal information is collected, used or disclosed, including how consent is sought, and the characteristics of the person from whom consent is sought. Consent may be given on behalf of an individual where the individual lacks capacity to consent in accordance with section 28 of the PDP Act.</p>
Eligible Data Breach	<p>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.</p>
Health Information	<p>Has the same meaning as in the HR Act:</p> <p>a) information or an opinion about:</p> <ul style="list-style-type: none"> (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 <p>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 provisions of this Act.</p>
Health Privacy Principles	<p>Health Privacy principles contained in the Health Records Act 2001 (Vic).</p>

Term	Definition
HR Act	Means the Health Records Act 2001 (Vic)
Information Privacy Principles	<p>The Information Privacy Principles are as defined in Schedule 1 of the PDP Act. These relate to:</p> <ol style="list-style-type: none"> 1. Collection 2. Use and disclosure 3. Data quality 4. Data Security 5. Openness 6. Access and Correction 7. Unique identifiers 8. Anonymity 9. Transborder data flow 10. Sensitive information
Personal information	<p>has the same meaning as the PDP Act: Information or an opinion (including information or an opinion forming part of a database or system), 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.</p>
PDP Act	Privacy and Data Protection Act 2014 (Vic)
Public Register	<p>Has the same meaning as the PDP Act: A document held by a public sector agency or a Council and open to inspection by members of the public (whether or not on payment of a fee) under an Act or regulation (other than the Freedom of Information Act 1982 or the Public Records Act 1973) containing information that:</p> <ol style="list-style-type: none"> a) a person or body was required or permitted to give to that public sector agency or Council under an Act or regulation; and b) would be personal information if the document were not a generally available publication.
Sensitive Information	<p>has the same meaning as the PDP Act: Information or an opinion about an individual's:</p> <ol style="list-style-type: none"> c) racial or ethnic origin; or d) political opinions; or e) membership of a political association; or f) religious beliefs or affiliations; or g) philosophical beliefs; or h) membership of a professional or trade association; or i) membership of a trade union; or j) sexual preferences or practices; or k) criminal record- <p>that is also personal information.</p>

9. Related Documents

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

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