

Moira Shire Council

Privacy Policy

Policy type	Council
Version Number	1
Responsible Director	Corporate, Governance and Performance
Responsible Officer	Manager Governance, Risk and Performance
Date endorsed by ELT	28 November 2023
Date adopted by Council	27 March 2024
Scheduled for review	This policy will be reviewed four years from the date of adoption, or sooner if required.

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Administrative changes do not materially alter the document (such as spelling/typographical errors, change to the name of a Council department, a change to the name of a Federal or State Government department). Administrative updates can be made in accordance with the Policy Framework Guidelines.

PURPOSE

The purpose of this policy is to outline Moira Shire Council's commitment to compliance with its obligations under the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* for the collection, management, and disclosure of personal information.

SCOPE

This policy applies to Administrators, Council employees, contractors, volunteers, and representatives who may have access to personal information collected or held by Council.

The policy relates to all personal, health and sensitive information collected and held by Council or any contractors providing services on behalf of Council, and includes information we have collected:

- about an individual through any of Council's public access interfaces;
- from the individual, including information about the individual collected from third parties; and
- about an individual regardless of format. This includes information collected on forms, in person, in correspondence, and over the telephone, via our website, as a customer request or enquiry, and social media applications such as Facebook.

DEFINITIONS

Term	Definition
Personal Information	means information or opinion (including information or opinion that forms part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion, other than certain health or generally available information that includes an individual's: <ul style="list-style-type: none">• name• address• telephone numbers/email address• date of birth/age• marital status• financial status• financial business/transactions with Council; or• pension number/Medicare card number etc.
Health Information	means information or opinion (including information or opinion that forms part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion, that includes an individual's: <ul style="list-style-type: none">• physical, mental, or psychological health (at any time)• disability (at any time) of an individual• expressed wishes about the future provision of health services to them• health services provided or to be provided to them

	<ul style="list-style-type: none"> • other personal information collected to provide, or in providing, a health service, or • the dispensing on prescription of a drug or medicinal preparation by a pharmacist. <p>but does not include information about an individual who has been deceased for more than 30 years.</p>
Sensitive Information	<p>means information or an opinion about an individual's:</p> <ul style="list-style-type: none"> • racial or ethnic origin; or • political options; or • membership of a political association; or • religious beliefs or affiliations; or • philosophical beliefs; or • membership of a professional or trade association; or • membership of a trade union; or • sexual preferences or practices; or • criminal record.
IPPs	Information Privacy Principles as outlined in the <i>Privacy and Data Protection Act 2014</i> that regulate how Council will collect, hold, manage, use, disclose or transfer personal information.
HPPs	Health Privacy Principles as outlined in the <i>Health Records Act 2001</i> that regulate how Council will collect, hold, manage, use, disclose or transfer health information.
Public Registers	<p>Documents that Council is required to make publicly available, pursuant to legislation:</p> <ul style="list-style-type: none"> • are open to inspection by members of the public. • contain information that a person or body was required or permitted to give Council under an Act or regulation; and • contain information that would be personal information if the document was a generally available publication.
Privacy Collection Statement	Outlines how Council handles personal and health information for a specific purpose or activity

POLICY STATEMENT

The *Privacy and Data Protection Act 2014* prescribes 10 Information Privacy Principles (IPP's) and the *Health Records Act 2001* prescribes 11 Health Privacy Principles (HPP's) that Council is required to comply with to promote and ensure the fair and responsible collection and handling of personal information.

Council is committed to managing personal, health and sensitive information in accordance with these Privacy Principles.

Collection

Council will only collect personal/health information that is necessary for its specific functions and activities. All information will be collected by fair and lawful means and not in an

unreasonably intrusive way. Council will only collect sensitive information where consent has been given or as permitted under legislation.

The collection of this information could be in a number of different ways, for example

- in person or by phone,
- email or other means of correspondence,
- Council website, social networking sites or SMS messages,
- online payment portals i.e. rates, animal registrations, fines/infringements,
- online or hard copy applications, forms and surveys,
- from third party referrals,
- CCTV – photographs or video footage.

Where it is practicable to do so at the time Council collects the personal or health information, Council will provide details of:

- why the information is being collected,
- to whom the information will/may be disclosed 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 they are able to gain access to the information.

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 or imminent threat to life, health or safety of an individual or the public,
- it is necessary for the establishment, exercise or defence of a legal claim,
- it is necessary for research, compilation and analysis of statistics relevant to government funded community programs.

If it is reasonable and practical to do so, Council will collect personal information about an individual direct from that individual. When doing so, it will inform the individual of the matters set out in the Act, including the purpose/s for which the information is collected. 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 take reasonable steps to maintain the confidentiality of any personal information provided 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.

Council will also take reasonable steps to protect the personal information it holds from misuse and loss, and from unauthorised access, modification or disclosure.

Council will generally only collect personal information about a child under the age of 18 with the written 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 child's information where parental/guardian involvement may hinder the delivery of services to a child. If a child under the age of 18 years is living independently of their parents/guardian, permission to collect personal information may be provided.

Use and disclosure

Council will use personal information for the primary purpose for which it was collected. Examples of this type of use include; for rates, billing, collection of debts, property valuation, planning and building approvals, provision of family services, community services, animal management services, waste management services, enforcement activities, asset management and requests for service.

Council will only use personal information within council, or disclose it outside council, for a reasonable secondary purpose, if required by law to do so, or in accordance with the Act; where the individual has consented or where the individual would reasonably expect this to occur.

Council may further use or disclose personal information where necessary to lessen or prevent a threat to life, health, safety or welfare of an individual or the public.

For example, the information may be disclosed:

- to other departments within Council to assist in the efficient actioning of enquires and may also be used to liaise with the customer in relation to the delivery of other Council services,
- to Council's contracted service providers who manage the services provided by council, e.g. kerbside collection service. Council requires these service providers 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 for compilation of 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 the Australian Immunisation Register for the purposes of registering vaccinations,
- to Police, Australian Federal Police, Fire Departments or State Emergency Services or other appropriate agencies for enforcement or law enforcement purposes,
- where permitted under another Act, including the *Freedom of Information Act 1982 (Vic)*,
- under the Victorian Government's Information Sharing reforms dealing with the collection, use and sharing of sensitive information in relation to family violence and child wellbeing and safety,
- in 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,
- to an individual's authorised representatives, health service providers or legal advisers,
- 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 Council's professional advisers, including accountants, auditors, insurers, bankers, valuers, debt collection agents, IT providers and legal advisors,
- in building permits and plans to property owners and the Victorian Building Authority,
- to recipients outside Victoria, only if they are governed by substantially similar privacy legislation or the individual has consented to the transfer or would be likely to give it, if it was impracticable to obtain that consent,

- to organisations such as Fit2Work as part of a police and background check screening check for employment. Such checks will only be carried out with written authorisation and the results not disclosed to third parties unless authorised by law,
- where Council has called for written submissions. A collection statement will be given on how the submission and personal information is intended to be used and/or disclosed,
- as a part of a public submission process a written submission may be included with the published agenda and minutes for a council or committee meeting, and available for inspection and on-line,
- Council may disclose the name of an individual who has submitted a question for response during a Council meeting. The individuals name may be read out, captured in the recording of the meeting and may appear in the minutes of the meeting,
- to an organisation that council has entered into agreement for rehoming/adoption or fostering of suitable cats or dogs and in some cases other animal organisations for animal management purposes.

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 individual is incapable of providing consent and it is not reasonably practicable to obtain the consent of an authorised representative or the individual does not have such an authorised person.

Personal information will be disclosed by the Council where required to do so by any other legislation. Where there is an inconsistency, all other legislation overrides the PDPA or HRA to the extent of the inconsistency. Other obligations under the PDPA or HRA will remain.

Data quality

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, function or activity for which it is to be used.

Data Security

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.

Council will dispose of personal information and health information collected, if it is no longer needed for any purpose, except where it needs to be retained in accordance with the *Public Records Act 1973* and any other applicable Act or Regulation.

Openness

Council will make available its policies on the management of personal information. On request, Council will take reasonable steps to provide individuals with general information on the types of information it holds, for what purpose the information is held, and how it collects, holds, uses and discloses that information.

Access and correction

Where Council holds personal or health information about an individual, on request, it will provide that individual with access to that information unless one or more exemptions detailed in the *Privacy and Data Protection Act 2014 to Health Records Act 2001* applies.

Satisfaction of the conditions in these Acts could result in access being withheld in conjunction with an explanation of why the information is being withheld (for example where the information relates to legal proceedings or where the *Freedom of Information Act 1982* applies).

If an individual believes that their personal or health information is inaccurate, incomplete or out of date, they may request Council correct and update the information.

Council will endeavour to process the request administratively or through other legislation without the need for a formal request to be made. However, in some cases, Council may manage the request in accordance with the provisions of the *Freedom of Information Act 1982*.

Unique identifiers

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a drivers licence number).

Council will not adopt as its own identifier, an identifier that has been assigned by another government agency.

Council will not use or disclose the identifier assigned to an individual by another government agency unless the consent of the individual has been obtained or it is permitted by law to do so.

Council will only assign identifiers to records if it is necessary to enable Council to carry out a function efficiently. The only exception is Maternal and Child Health clients who are assigned a unique identifier by the state-wide system (CDIS) and Immunisation clients in the Immunisation Provider System (ImPS).

Anonymity

Whenever it is lawful and practicable, individuals may exercise the option of not identifying themselves when supplying information or entering into transactions with Council. However, in some cases, where individuals are anonymous, what Council can do in response may be limited. For example, it may not be possible to investigate an anonymous complaint without further information.

Transborder data flows

Council may transfer personal or health information about an individual or organisation outside of Victoria in the following instances:

- if the individual has provided their consent; or
- would likely to give it if it wasn't practicable to obtain consent; or
- if disclosure is authorised by law; or
- if the recipient of the information is subject to a law, scheme or contract with principles that are substantially similar to the *Privacy and Data Protection Act 2014*; or
- where the information is health information, the specific provisions of the Health Act are met.

By way of example, Council may use cloud-computing services based outside Victoria, in which case, Council must ensure compliancy with the Victorian IPPs and HPPs in engaging with those services.

Transfer/Closure of a Health Service Provider

If Council's health services were to be transferred or closed, Council would take reasonable steps to notify recipients of health services and notify them of the options to transfer their information to the new health service provider or health service providers nominated by themselves.

Making information available to another Health Service Provider

Council, where it acts as a health service provider, will upon consent by an individual, provide a copy or a written summary of their health information to a specified health service provider or where required to do so by law.

Sensitive Information

Council will not collect sensitive information about an individual except in circumstances prescribed in the *Privacy and Data Protection Act 2014* or in circumstances where the information is both ethically pertinent and necessary to one of its functions.

Complaints

If an individual feels aggrieved by Council's handling of their personal or health information, they may make a complaint to Council's Privacy Officer.

By email info@moira.vic.gov.au
By phone 03 5871 9222
By mail PO Box 578 Cobram Vic 3643

Council treats complaints seriously and will try to resolve them fairly, quickly and objectively. If an individual makes a complaint, Council will work with the complainant to resolve their complaint and keep them informed of its progress.

Alternatively, the individual may make a complaint to the Office of the Victorian Information Commissioner (OVIC) in relation to personal information or to the Health Complaints Commissioner in relation to health information.

Office of the Victorian Information Commissioner (OVIC): www.ovic.gov.au
PO Box 24274
Melbourne, Victoria 3001

enquiries@ovic.vic.gov.au
1300 006 842

Health Complaints Commissioner www.hcc.vic.gov.au
Level 26
570 Bourke Street
Melbourne, Victoria 3000

1300 582 113

Accessibility

Council has the following services in place to assist people with specific needs to make a complaint:

- a hearing loop that is compatible with hearing aids that have a T program or T switch is available at Customer Service centres in Cobram and Yarrowonga
- Council can be contacted through the National Relay Service (NRS). TTY users can phone the NRS on 133 677 then ask for 03 5871 9222
- Speak & Listen (speech-to-speech) users phone the NRS on 1300 555 727 and ask for 03 5871 9222
- Internet relay users connect to NRS on www.relayservices.com.au then ask for 03 5871 9222
- Interpreting services are available upon request.

MONITORING AND EVALUATION

A review will be conducted with key stakeholders in the first 12 months of the implementation of the policy. Further reviews will be undertaken in accordance with the Policy Framework Guidelines.

RELATED LEGISLATION

Local Government Act 2020

Charter of Human Rights & Responsibilities Act 2006

Gender Equality Act 2020

Privacy and Data Protection Act 2014

Health Records Act 2014

RELATED POLICIES AND PROCEDURES

Records Management Policy

IT Security Policy

IT Security Standards

REFERENCES

Office of the Victorian Information Commissioner (OVIC) – Privacy Policy guidance

DOCUMENT REVISIONS

Version	Summary of Changes	Approved by	Date
1	New Policy adopted	Council	27/03/2024