




# Information Privacy Policy

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## 1 Document Control

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RESPONSIBLE GENERAL MANAGER	General Manager Corporate Services
POLICY OWNER	Manager Governance
APPROVED BY	Chief Executive Officer on 4.6.19
EFFECTIVE DATE (If different from approval date)	4.6.19
SIGNATURE	
REVIEW DATE	30/06/2020
CM REF AND VERSION	09/28466 [v5]
VERSION HISTORY	This Policy Replaces Version 4 Version 1 – Council approved 24 June 2002 Version 2 – Council approved 30 April 2007 Version 3 – CEO approved 15 May 2012 Version 4 – CEO approved 12 May 2015

## 2

### Purpose

To meet the *Information Privacy Principles* (IPPs) and *Health Privacy Principles* (HPPs) set out in the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)* in relation to the management and handling of *personal and health information* within the public sector.

### 3 Scope

This Policy applies to all Councillors, employees, contractors and volunteers of the City of Kingston (Council).

This Policy covers all *personal and health information* held by Council, which means information, or an opinion about an individual whose identity is apparent, or can be reasonably ascertained, from that information or opinion. This includes information we have collected in any format including correspondence, in person, over the phone and online/electronically. This Policy extends to *personal and health information* sourced from third parties.

### 4 Policy Details

#### 4.1 Policy Statement

The responsible collection and handling of *personal information* is a key aspect of democratic governance and Council is strongly committed to full compliance with the *IPPs* and *HPPs* contained within the *Privacy and Data Protection Act* and *Health Records Act* respectively. This Policy specifies how Council will achieve its commitment.

#### 4.2 Collection of Information (IPP 1/HPP 1)

##### 4.2.1 What we collect:

Council will only collect:

- *Personal information* that is necessary for specific and legitimate functions of Council;
- *Health information* that is necessary for specific and legitimate functions of Council following the additional collection requirements of the *HPPs*; and
- *Sensitive information* where the individual has consented, or collection is otherwise required or permitted by law.

*All personal, health and sensitive information* will be treated with the utmost security and confidentiality.

##### 4.2.2 How we collect information:

Information will be collected by fair and lawful means, and not in an unreasonably intrusive way. Where reasonable and practicable to do so, Council will collect *personal and health information* directly from the individual involved. However, Council reserves the right to collect *personal and health information* from third parties where the law or circumstances warrant it. In accordance with clause 4.3 of this Policy, Council will use collection notices to advise individuals of its privacy practices, including the purposes for which their information is being collected, and of those third parties to whom their information is usually disclosed. However, Council reserves the right not to do so where permitted by law.

### 4.3 Collection Notices

Whenever Council collects your *personal information*, you should be given notice of how we intend to use, share and disclose that *personal information*. This notice could be provided in a form similar to the following:

The City of Kingston is committed to protecting your privacy. The personal information requested on this form is being collected by City of Kingston for the purpose of *[insert purpose]* or any other directly related purpose. The personal information will be disclosed to *[insert names of any other entities Council will be disclosing the personal information to]* for the purpose of *[insert how those entities will be using the personal information]*. It will not be disclosed to any other external party without your consent, unless required or authorised by law. If the personal information is not collected, *[insert details of what will happen- can they still participate in the process, can they be anonymous, etc]*. If you wish to alter any of the personal information you have supplied to the City of Kingston, please contact Council via telephone *[insert number for your work area]* or email *[insert email address for your work here.]*

### 4.4 Use and Disclosure of Information (IPP 2/HPP 2)

#### 4.4.1 How we use and disclose information:

Council will take all necessary measures to prevent unauthorised access to, or disclosure of, *personal, health and sensitive information*.

Council will not use or disclose information about an individual other than for the *primary purpose* for which it was collected, unless one of the following applies:

- For *personal information* - it is for a *related secondary purpose* that the individual would reasonably expect;
- For *sensitive and health information* - it is for a *directly related secondary purpose* that the individual would reasonably expect;
- Where Council has the consent of the individual to do so or if, as defined in the Health Records Act the individual is incapable of giving consent; or
- As otherwise required or permitted by the Privacy and Data Protection Act, Health Records Act or any other legislation.

#### 4.4.2 When we disclose to other parties:

Council may disclose your *personal information* to other parties under circumstances, such as:

**a) Other departments within Council**

Where necessary, Council may disclose your *personal information* to other work areas within the Council to assist in actioning your enquiry.

**b) Contracted service providers**

Council outsources some of its functions to third parties (contractors) who perform various services for and on behalf of Council. Council may disclose *personal information* it has collected about an individual to the contractor, where it is necessary for the contractor to carry out a specific job or task.

All contractors have agreed to be bound by the provisions of the Privacy and Data Protection Act. All contracts with contracted service providers include a provision ensuring that they are bound by the *IPPs* in the same way and to the same extent as Council.

**c) When required or authorised by law**

Council may disclose *personal information* to:

- Debt collection agencies;
- Law enforcement agencies including Victoria Police and the courts where it is believed that the disclosure is reasonably necessary for the prevention, detection, investigation, prosecution or punishment of criminal offences of breaches of a law imposing a penalty or sanction; or
- Other individuals or organisations only if Council believes that the disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare or a serious threat to public health, safety or welfare.

**d) Public Submissions**

In the interests of transparent decision making, *personal information* provided by you as part of a public submission to a Council or committee meeting may be included in the published agenda papers and minutes of the meeting, which are displayed online and available in hardcopy format for an indefinite period. Subject to clause 4.8, an individual may make an anonymous submission.

**e) Public Registers**

*Personal information* may be contained in registers Council is required by law to make available for public inspection. Under the *Local Government Act 1989 (Vic)*, any person is entitled to inspect Council's public registers.

**4.3 Data Quality (IPP 3/HPP3)**

Council will take reasonable steps to ensure that all *personal, sensitive and health information* collected, held, used and disclosed is accurate, complete and up to date and relevant to its purpose, functions and activities.

You may request that Council amend any *personal information* or *health information* you have supplied to it by following the procedure contained in clause 4.6 of this Policy.

**4.4 Data Security and Retention (IPP 4/ HPP 4)**

Council will take reasonable steps to prevent misuse, loss, unauthorised access, modification or disclosure of *personal and health information*. *Personal and health information* will be managed confidentially and securely and destroyed, de-identified or archived in accordance with Public Record Office Victoria (PROV) standards.

Council will monitor and implement reasonable and appropriate technical advances or management processes, to provide an up-to-date ongoing safeguard for personal information.

**4.5 Openness (IPP 5/HPP 5)**

This Policy will be available on Kingston websites or on request at Customer Service Centres.

On request, Council will inform an individual, in general terms, of what information it holds on the individual, for what purpose this information is held and how the information is collected, held, used and disclosed. If the individual then requests further details, the individual can access their *personal information* or *health information* held by Council as outlined in clause 4.6 of this Policy.

**4.6 Access to and Correction of Information (IPP 6/HPP 6)**

Council is subject to the *Freedom of Information Act 1982 (Vic)* (FOI Act) whose object is to extend as far as possible the right of the community to access information. Consequently, access to and correction of information held by Council is generally managed through a Freedom of Information (FOI) application under the FOI Act.

However, some requests for *personal* and *health information* may be dealt with informally outside the FOI Act. Please contact Council on 1300 653 356 to discuss your requirements prior to making an FOI request.

Correction of information obtained outside of the FOI Act, may also be requested informally, which can be discussed with Council's Freedom of Information Officer.

Where information cannot be provided informally, individuals may submit an FOI application.

For details on how to make an application under the FOI Act to access and correct your *personal or health information*, refer to Council's website [here](#).

#### **4.6.1 Denial of access**

Council may decide not to allow access to *personal* and *health information* in accordance with the exemptions contained within the Privacy and Data Protection Act and Health Records Act.

#### **4.7 Unique Identifiers (IPP 7/HPP 7)**

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

Council will not assign, adopt, use, disclose or require unique health or other identifiers from individuals except for the course of conducting normal business or if allowed or required by law.

#### **4.8 Anonymity (IPP 8/HPP 8)**

Before a member of Council staff collects your *personal information*, they must first establish whether that particular information is necessary to complete their function or activity and only collect that which is required in accordance with clause 4.2.1 of this Policy.

Where it is lawful and practicable, Council will give individuals the option of anonymously entering into transactions with Council.

Anonymity may limit Council's ability to process a complaint or other matter. Therefore, if you choose not to supply *personal information* that is necessary for Council to perform its function, then Council reserves the right to take no further action on that matter.

#### **4.9 Transborder Data Flows (IPP 9/HPP 9)**

Council will only transfer *personal or health information* outside of Victoria in accordance with the provisions outlined in the Privacy and Data Protection Act and Health Records Act.

##### **4.9.1 Transfer to individuals or organisations outside Victoria**

Council may transfer *personal information* about an individual to another individual or organisations outside Victoria only in the following instances:

- The individual has provided consent;
- Disclosure is authorised by law;
- The recipient of the information is subject to a law, binding scheme or contract with similar principles as the Privacy and Data Protection Act; or
- Where the information is *health information*, the specific provisions of the *HPPs* are met.

#### **4.9.2 Third Part Hosted Information**

When Council uses cloud computing services based outside Victoria, it will take all reasonable steps to ensure that the information which it transfers will not be held, used or disclosed by the host of the information inconsistently with the Victorian *IPPs* or *HPPs*.

#### **4.10 Sensitive Information (IPP 10)**

Council will only collect *sensitive information* where:

- 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.

#### **4.11 Transfer or Closure of Health Service (HPP 10)**

*Health Information* relating to a discontinued Council Health Service will be managed in accordance with the Health Records Act.

#### **4.12 Making Health Information available to another service provider (HPP 11)**

Council's Health Services will provide *health information* to other health providers in accordance with the Health Records Act.

#### **4.13 The Role of the Information Privacy Officer**

Council's Information Privacy Officer is responsible for overseeing the implementation of this Policy by:

- Informing and educating Council officers of their obligations under the Privacy and Data Protection Act and Health Records Act and to handle difficult enquiries, complaints or adjustments concerning *personal* or *health information*.
- Maintaining all documentation relating to the management and implementation of the Privacy and Data Protection Act and Health Records Act for Council.
- Responding to requests for access to and correction of *personal* and *health information* in consultation with Council Officers in accordance with Council's customer service standards and clause 4.6 of this Policy
- Responding to privacy breaches in accordance with clause 4.14 of this Policy
- Investigating privacy complaints made in accordance with clause 4.15 of this Policy

The Information Privacy Officer supports Council's Privacy Committee, which has an oversight role in relation to how privacy is handled by Council.

#### **4.14 Privacy Breaches**

A privacy breach is where *personal* or *health information* is lost or subjected to unauthorised access, modification, use or disclosure or other misuse or interference.

Privacy breaches can originate internally, such as via human error or externally, such as via hacking.

Where an individual becomes aware of a privacy breach by Council, the complaints process contained in clause 4.15 should be used.

Where a staff member, external service provider or third party information host notifies Council of a privacy breach, Council's Information Privacy Officer will:

- Contain the breach and undertake a preliminary assessment of the incident;
- Undertake a risk assessment regarding the number of affected individuals and impact on individuals and Council;
- Notify affected individuals;
- Evaluate and make recommendations to prevent a future similar breach; and

- Notify Council's Privacy Committee;
- Report the breach to the Office of the Victorian Information Commissioner (OVIC) where necessary, to gain assistance in containing the breach, assessing the impact and preventing similar breaches from occurring in the future;
- Comply with mandatory breach reporting obligations to the Office of the Australian Information Commissioner (OAIC) under the Notifiable Data Breaches (NDB) scheme, such as where tax file number information is involved in a breach.

#### **4.15 Complaints or Enquiries Concerning Privacy**

The Privacy and Data Protection Act and Health Records Act both provide for complaints to be made by individuals who believe their *personal, sensitive or health information* has been mishandled.

Complaints regarding Council's management of *personal, sensitive or health information* should be directed to the Information Privacy Officer and sent to:

[info@kingston.vic.gov.au](mailto:info@kingston.vic.gov.au); or

PO BOX 1000  
Mentone VIC 3194

Complaints should be made in writing. A complaint will be investigated by the Information Privacy Officer as soon as possible, and the complainant will be provided with a written response within 10 working days.

Alternatively, complaints may be made directly to the following external bodies:

- a complaint regarding the handling of *personal or sensitive information* may be made to the Office of the Victorian Information Commissioner (OVIC); or
- a complaint regarding the handling of *health information* may be made to the Health Complaints Commissioner.

However, both external bodies may decline to hear the complaint if it has not first been made to Council.

Additional information can be found on Council's website [here](#).

### **5 Delegation Authority and Decision Guidelines**

The Instrument of Sub-Delegation by the Chief Executive Officer specifically delegates certain powers, duties and functions in relation to the Privacy and Data Protection Act. These include the duty to comply with the *IPPs* and the function of receiving notice of a complaint referred by the Information Commissioner under sections 20 and 63(2) of the Privacy and Data Protection Act respectively.

### **6 Human Rights Charter**

This Policy has been reviewed against and complies with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, section 13, as this Policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with.

## 7 Related Documents and Resources

### 7.1 Legislation / External Documents

Privacy and Data Protection Act 2014 (Vic)

Health Records Act 2001 (Vic)

Freedom of Information Act 1982 (Vic)

## 8 Definitions

<b>Personal Information</b>	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information about an individual who has been dead for more than 30 years.
<b>Health Information</b>	means information or an opinion about the physical, mental, or psychological health of an individual, a disability of an individual, the individual's expressed wishes for the future provision of health services to them, or a health service provided or to be provided to an individual. It also includes other personal information collected to provide, or in providing, a health service.
<b>IPPs</b>	Information Privacy Principles. Set of principles that regulate the handling of personal information.
<b>HPPs</b>	Health Privacy Principles. Set of principles that regulate the handling of health information.
<b>Primary Purpose</b>	Means the main reason the personal information was shared with or collected by Council.
<b>Reasonable Secondary Purpose</b>	Means a use of personal information that a reasonable person would understand could or may occur. For example, use of library users details for a survey regarding a Library Strategy.
<b>Sensitive Information</b>	Information or an opinion about an individual's: <ul style="list-style-type: none"><li>• Race or ethnic origin; or</li><li>• Political opinions; or</li><li>• Membership of a political association; or</li><li>• Religious beliefs or affiliations; or</li><li>• Philosophical beliefs; or</li><li>• Membership of a professional trade association; or</li><li>• Membership of a trade union; or</li><li>• Sexual preferences or practice; or</li><li>• Criminal record.</li></ul> that is also <i>personal information</i> .

### Examples:

Some examples of *personal information and/or health information* held by Council includes the following:

- Public registers administered under various Acts
- Electronic Document and Records Management System files
- Personnel files
- Client files
- Property files



- Rates database
- Valuations database
- Customer Service database
- Mailing lists