

Title:	<b>Privacy Policy</b>
Type:	<b>Council</b>
Adopted:	26 August 2020
TRIM Reference:	20/53794
Attachments:	Not applicable

### 1. Purpose

The purpose of the Privacy Policy is to ensure compliance with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* in relation to the management and handling of personal and health information within the public sector.

### 2. Rationale

The Murrindindi Shire Council believes that the responsible handling of personal information is essential to good governance and is strongly committed to protecting an individual's right to privacy.

### 3. Scope

This Policy applies to all Murrindindi Shire Council Councillors, officers, volunteers and contractors.

This Policy covers all personal information, confidential information, health information and sensitive information collected and / or held by Council about an individual.

### 4. Definitions

Reference Term	Definition
Confidential Information	<p>'Confidential information' is not used for the same purposes as personal or health information. Confidential information is any data, documents, photos, drawings or other information marked as <i>confidential</i> in accordance with section 3(1) (a) to (l) of the <i>Local Government Act 2020</i> ('LGA').</p> <p>It is possible that the different types of information may become intermingled in the course of Council business, which would mean the same piece of data or information may be fully or partially protected by both privacy legislation and the LGA.</p>
Health Information	<p>'Health information' is defined in the <i>Health Records Act 2001</i> (HRA) as:</p> <ul style="list-style-type: none"> <li>a) Information or an opinion about— <ul style="list-style-type: none"> <li>i. the physical, mental or psychological health (at any time) of an individual; or</li> <li>ii. a disability (at any time) of an individual; or</li> <li>iii. an individual's expressed wishes about the future provision of health services to him or her; or</li> <li>iv. a health service provided, or to be provided, to an individual—that is also personal information; or</li> </ul> </li> <li>b) other personal information collected to provide, or in providing, a health service; or</li> <li>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</li> <li>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.</li> </ul>

Responsible Officer: Manager Governance & Risk (Privacy Officer)

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Personal Information	<p>'Personal information' is defined in the <i>Privacy and Data Protection Act 2014</i> (PDPA) as:</p> <ul style="list-style-type: none"><li>• 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.</li></ul> <p>Council holds personal information about individuals in order to carry out its functions and provide community services. In some instances, personal information may be contained on public registers and statutory records (for example, building permits, planning permits, food premises, animal registration and the municipality's voters' roll).</p> <p>Although information pertaining to an individual's health is considered to be that individual's personal information, health information is expressly excluded from PDPA.</p>
Sensitive Information	<p>'Sensitive information' means information or an opinion about an individual's: racial or ethnic origin, political opinions, membership of a political association; membership of a professional association or trade association, membership of a trade union, philosophical or religious beliefs and associations, sexual preferences and practices, or criminal record. This is also considered personal information and protected under the same Victorian Privacy Legislation.</p> <p>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 PDPA.</p> <p>Sensitive information will be treated with the utmost security and confidentiality and only used for the purpose for which it was collected. Council must ensure that any sensitive information collected is stored confidentially and securely in accordance with Information Privacy Principle 4 — Data Security and Retention (see the <a href="#">Information Privacy Principles section of this Policy</a> and the associated guideline).</p>

## 5. Policy

This Policy outlines Council's responsibilities when collecting, handling and disclosing an individual's personal and health information. Council will adhere at all times with the requirements under the Information Privacy Principles and with the requirements of this Policy.

In an effort to balance an individual's right to privacy with the public interest of ensuring the free flow of information, it is also the policy of Council to provide access to information where legislation permits and where the circumstances are appropriate to do so. Access will be provided except in circumstances outlined in Privacy Legislation, or where the *Freedom of Information Act 1982* ('FOI Act') applies. Access to personal information via the FOI Act should only be in applicable circumstances.

### 5.1 Roles and Responsibilities

The Chief Executive Officer is responsible for delegating the management of responsibilities under the respective Acts to Council Officers, including Council's Privacy Officer (Manager Governance & Risk).

The role of the Privacy Officer is to assist Council and its Officers with adhering to obligations under the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*. The Privacy Officer is responsible for providing assistance to members of the community in relation to privacy enquiries, complaints or adjustments concerning their own personal or health information and ensuring that all required processes are followed and documented appropriately.

The Privacy Officer is required to maintain all documentation relating to the management and implementation of the *Privacy and Data Protection Act 2014* for Council.

### 5.2 Information Privacy Principles

It is the policy of the Murrindindi Shire Council that personal information is managed in accordance with the 10 Information Privacy Principles (the Principles).

#### Principle 1: Collection of Personal Information

Council will only collect personal information that is necessary for carrying out its functions or activities, and where reasonable and practicable, the collection will be from the individual directly.

When collecting information, Council will take reasonable steps to advise the information being sought, the purposes for which the information is being collected, whether any law requires the collection, the consequences, if any for not providing the information and any third parties to whom the information is usually disclosed.

Information will be collected in a variety of ways, including but not limited to:

- During conversations with the individual and / or their representatives.
- Through interaction with Council's website, social networking sites or any electronic correspondence with Council.
- Through enquiries, feedback, surveys, application forms, facility hire agreement or Council permits.
- Through employment applications.
- Through submissions under section 223 of the *Local Government Act 1989* to Council, public participation in line with the Governance Rules 2020, petitions submitted to Council and any other submissions to Council deemed to be publicly available information.

Council will only obtain personal information from a third party where it is authorised to do so.

The personal information that will be collected by Council includes but is not limited to:

- Names
- Addresses
- Contacts – including phone and email
- Date of birth
- Vehicle registration

Council may use the information provided to it for the following purposes:

- To contact residents and ratepayers in relation to Council activities and functions, including but not limited to rates, permit applications or care services
- To facilitate the collection of Council fees and charges
- To enable Council to undertake its law enforcement functions
- To contact individuals who provide feedback, customer requests or respond to surveys as part of Council's commitment to customer service
- To provide opportunities for involvement in Council initiatives and programs where relevant.
- To communicate where requested, such as where an individual has opted to join a mailing list or SMS notification service
- To aid community safety, such as to provide emergency information.

#### Health Information

Health information differs slightly from personal information in that Council will only collect information that is necessary for specific and legitimate functions of Council, and following the additional collection requirements of the Health Privacy Principles. Health information will only be collected directly from the individual or someone authorised to disclose the information.

#### **Principle 2: Disclosure of Personal Information**

Council will take all necessary measures to prevent unauthorised access to, or disclosure of, all personal information collected.

Council may disclose personal information in the following situations:

- For a related purpose that the individual would reasonably expect.
- Where Council has the permission of the individual to do so.
- To contractors engaged by Council to undertake services for, or on Council's behalf. Personal information provided to these contractors will be limited to only what is required for the service to be provided. Council mandates that all contractors comply with privacy legislation. Where the information is health related it will only be provided in accordance with the *Health Records Act 2011*.
- Council also discloses personal information to other agencies in the course of an investigation and defense of legal claims against Council. This includes Council's solicitors, consultants and investigators.
- Council may also use personal information contained in complaints made to Council as part of any prosecution undertaken as part its law enforcement functions. If an individual has opted to register a complaint with Council, Council may be obliged under legislation to investigate such complaint, and if necessary, may initiate legal proceedings as a result of its investigation to prosecute possible offenders.
- To debt collection agencies, government agencies, law enforcement agencies or any other external party where authorised or legally compelled to do so.
- Where 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.

- Where Council is compelled to do so by law – for example if requested to do so in Court or by subpoena.

Sensitive or health information will only be disclosed for a directly related purpose which the individual would expect.

#### Public Submissions, Public Participation and Registers

Personal information provided by the community as part of a public submission to a Council or committee meeting under the *Local Government Act 2020* or Council's Governance Rules may be included with the published agenda papers and minutes of the meeting. The published agenda papers and minutes are displayed online and available in hardcopy format for an indefinite period. This may also include petitions that are submitted to Council.

Personal information may also be contained in Council's Public Registers. Under the *Local Government Act 2020*, any person is entitled to inspect Council's Public Registers, or make a copy of them, upon payment of the relevant fee.

#### **Principle 3: Data Quality**

Council will take reasonable steps to ensure that all personal information collected, used or disclosed is accurate, complete and up to date, bearing in mind its purpose, functions and activities.

#### **Principle 4: Data Security**

Council will take all reasonable measures to ensure that information is stored safely and securely. This will ensure that information held by Council is protected from misuse, loss, unauthorised access, modification or disclosure. This applies regardless of the format in which the information is held.

Any personal information provided to Council which is no longer necessary for Council's purposes will be disposed of in accordance with the document disposal requirements of the *Public Records Act 1973* and the General Retention and Disposal Authority for Records of Common Administrative Functions Version 2009.

Security is implemented via access rights to Council's corporate information system, based on levels of hierarchical authority within Council, or for some department specific requirements. Paper records must be stored in secure areas that comply with the Public Records Office Standard PROS 19/06.

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

#### **Principle 5: Openness**

This Privacy Policy and various website privacy statements detail Council's management of personal information and will be made available on Council's website and hard copies provided upon request.

#### **Principle 6: Access and Correction of Personal Information**

Individuals have a right to request access to any personal or health information held about them, and may request any incorrect information be corrected. Requests for access generally are handled under the *Freedom of Information Act 1982* as a Freedom of Information request.

However some requests may be processed outside of the *Freedom of Information Act*. Individuals should contact Council to discuss.

Where an individual requests Council to correct their personal information, Council will undertake to correct that information as a priority.

Council may decide not to allow access to personal information in accordance with the legislated exemptions. If an access or correction request is denied, reasons will be provided.

**Principle 7: Unique Identifiers**

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a driver's license number). Council will only assign identifiers to records if it is necessary to enable Council to carry out a function efficiently or where required by law.

**Principle 8: Anonymity**

Council will, where it is lawful and practicable, give individuals the option of not identifying themselves when entering into transactions with Council.

Council will ensure that individuals are aware of all, if any, limitations to services if the information required is not provided. Anonymity may limit Council's ability to process a complaint or other matter, Council reserves the right to take no action on any matter if an individual chooses not to supply relevant personal information so that Council can perform its functions.

**Principle 9: Trans-border Data Flows**

Council will only transfer personal or health information outside of Victoria in accordance with the provisions outlined in the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*, or where the individual has consented.

**Principle 10: Sensitive Information (Information Privacy Principle 10)**

Council will not collect sensitive information about individuals except in circumstances prescribed in the *Privacy and Data Protection Act 2014* (Vic) or in circumstances where the information is both directly pertinent and necessary to one of its functions.

Sensitive information (as defined in this Policy) will be treated with the upmost security and confidentiality and only used for the purpose for which it was collected.

**5.3 Complaints or enquiries concerning Information Privacy**

All complaints regarding a breach of Council's privacy obligations are taken seriously and will be managed appropriately. When a complaint is received by Council it will be allocated to Council's Privacy Officer for recording and initiating investigation. The appropriate Manager, Director or the Chief Executive Officer will oversee the investigation, including seeking statements from any Council Officers involved.

A complaint is required to follow these requirements:

- A complaint should be made in writing (contact details available on Council's Website)
- The complaint must include contact details and a copy of a suitable form of identification may be required
- The complaint must include a brief description of the incident, or alleged breach, including any dates, what form it was in etc.
- The complainant must be the person who is directly involved or by a person who has authorisation in writing from the person directly involved, a parent or legal guardian can represent their child if they are under the age of 18 years
- A complainant may withdraw their complaint at any time, in writing.

These will be acknowledged as soon as possible, within ten business days and will be resolved as soon as practicable.



#### 5.4 Public Registers

The following public registers are among those currently maintained by Murrindindi Shire Council which may include personal information.

- Details of current allowances fixed for Councillors under section 39 of the *Local Government Act 2020*.
- Details of senior officers' total salary packages for the current financial year and the previous year including the gross salary, the amount of the Council or employer contribution to superannuation, the value of any motor vehicle provided by the Council and the total value of any other benefits and allowances provided by the Council.
- Names of sitting Councillors and Council Officers who were required to submit a return of interest during the financial year and the dates the returns were submitted.
- Submissions received from the public in accordance with s223 of the *Local Government Act 1989* during the previous 12 months.
- The certified voters' roll for a Council election - for the period beginning on the certification date and ending 30 days after election day.
- Copies of campaign donation returns lodged by candidates in the last council elections.
- Details of overseas or interstate travel (with the exception of interstate travel by land for less than 3 days) undertaken in an official capacity by Councillors or any member of Council staff in the previous 12 months, including the names of the Councillors or members of Council staff and the date, destination, purpose and total cost of the overseas or interstate travel.
- A register of registered dogs and cats (including ownership details) in the municipality must be maintained by Council in accordance to Section 18 of the *Domestic Animals Act 1994*.
- A register of delegations kept under sections 11(8) and 47(7) of the *Local Government Act 2020*
- A document containing details of all leases involving land which were entered into by the Council as lessor, including the lessee and the terms and the value of the lease.
- A register of authorised officers appointed under the *Local Government Act 1989*.
- A register of Gifts, Benefits and Hospitality received by Councillors and Council Staff in accordance to sections 49(b) and 138(2)(a) of the *Local Government Act 2020*.
- Council's Planning and Building Departments keep the following registers:
  - A register of building permits kept pursuant to s31 of the *Building Act 1993*.
  - A register of occupancy permits and temporary approvals received by Council kept pursuant to s74 of the *Building Act 1993*.
  - A register of emergency orders, building notices and binding orders given to Council under part 8 of the *Building Act 1993*, as required under s126 of the *Building Act 1993*.
  - A register of all applications for planning permits and all decisions and determinations relating to permits.

#### 6. Related Policies, Strategies and Legislation

##### Legislation

- *Crimes Amendment (Document Destruction) Act 2006*
- *Electronic Transactions Act 2000*
- *Evidence Act 2008*
- *Evidence (Document Availability) Act 2006*
- *Freedom of Information Act 1982*
- *Health Records Act 2001*
- *Privacy and Data Protection Act 2014*
- *Local Government Act 2020*
- *Public Records Act 1973*

## **Policies**

- CCTV (TBC)
- Communication (20/37341)
- Councillor Code of Conduct (16/74120)
- Customer Service (18/57089)
- Customer Feedback and Complaints (19/59530)
- Employee Code of Conduct (16/24435)
- Fraud and Corruption Control (19/65485)
- Murrindindi Shire Council Governance Rules (TBC)
- Public Interest Disclosures (19/80421)
- Public Transparency (20/36276)
- Recruitment, Screening and Induction (20/37476)
- Related Party Disclosure (18/62039)

### **7. Council Plan**

Adoption of this Policy supports the strategy in the Our Promise Strategic Objective of the Council Plan 2017-2021 to represent and advocate for our community in a transparent and equitable way.

### **8. Management and Review**

This Policy will be reviewed by Council's Privacy Officer every four years. The reviewed Policy will be proposed to Council for adoption. The next review will be undertaken in August 2024.

### **9. Consultation**

No public consultation was required in the writing or reviewing of this Policy.

### **10. Human Rights Charter**

This Policy has been developed with consideration of the requirements under the [Charter of Human Rights and Responsibilities](#).