

## COUNCIL POLICY

<b>Council Policy Title:</b>	<b>Information Privacy</b>
<b>Council Policy ref. no:</b>	18.2
<b>Responsible Department:</b>	Corporate and Community Services
<b>Date of adoption/review:</b>	22 April 2015

### 1. INTRODUCTION

The purpose of the Information Privacy Policy is to meet the information privacy principles (IPPs) and health privacy principles (HPPs) set out in 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. POLICY

#### 2.1 Policy Rationale

All Councils are required to comply with the ten Information Privacy Principles (IPPs). The IPPs establish protective standards for the handling of personal and/or sensitive information throughout its life cycle, from collection to use and disclosures, storing, security, accessibility and disposal.

The objectives of the *Privacy and Data Protection Act 2014* are:

- (a) to balance the public interest in the free flow of information with the public interest in protecting the privacy of personal information in the public sector; and
- (b) to balance the public interest in promoting open access to public sector information with the public interest in protecting its security; and
- (c) to promote awareness of responsible personal information handling practices in the public sector; and
- (d) to promote the responsible and transparent handling of personal information in the public sector; and
- (e) to promote responsible data security practices in the public sector.

#### 2.2 Policy applies to:

This policy applies to all employees, Councillors, members of committees, contractors and volunteers of the Colac Otway Shire.

This policy covers all personal and health information held by the Shire, that is, information or an opinion about an individual whose identity is apparent, or can be reasonably ascertained from that information or opinion. This includes information collected in any format including correspondence, in person, over the phone, and over the Internet.

The policy also covers personal information that has been sourced from third parties.

Publicly available information held in public registers and information used for law enforcement are exempt from provisions of the Act. However, this exemption only applies if the use and disclosure of personal information is for the primary purpose for which the information was collected, or for a related purpose the person would reasonably expect.

### **2.3 Privacy Statements**

- (a) A general statement outlining Council's position on the handling of personal information will be used at all points of collection and all outgoing correspondence that may request personal or health information. This will include Council's website, advertising material, standards forms and correspondence requesting personal or health information.
- (b) Forms collecting information that is to be used for a specific purpose will include a privacy statement on the form including the purpose of collection.
- (c) All Council's privacy statements will be published confirming Council's commitment to information and health privacy principles either as a broad advertising exercise or on each individual form.

### **2.4 Information Privacy Principles**

Colac Otway Shire will manage personal information as outlined in the following principles:

#### **(a) Collection**

- (i) Colac Otway Shire will only collect personal information that is necessary for specific and legitimate functions of Council. Information will be collected by fair and lawful means.
- (ii) Council will advise individuals, where possible, of the purposes for which their personal information is being collected and of those third parties to whom the information is usually disclosed.
- (iii) Sensitive information will only be collected where the individual has consented or collection is required or permitted by law.
- (iv) Sensitive information (as defined in this policy) will be treated with security and confidentiality and only used for the purpose for which it was collected.

#### **(b) Use and Disclosure of Information**

Colac Otway 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:

- It is for a related purpose that the individual would reasonably expect;
- Where Council have the consent of the individual to do so;

- If, as defined in the Health Act 2001, the individual is incapable of giving consent;
- As required or permitted by the Information Privacy Act or any other legislation.

**(c) Data Quality**

Council will take reasonable steps to ensure that all personal information collected, used or disclosed is accurate, complete and up to date.

**(d) Data Security and Retention**

- (i) Council will take reasonable measures to prevent misuse or loss or unauthorized access, modification or disclosure of personal and health information.
- (ii) Personal and health information will be managed confidentially and securely and destroyed or archived in accordance with the Victorian Local Government General Disposal Schedule.
- (iii) Council will monitor and implement reasonable and appropriate technical advances or management processes, to provide an up to date ongoing safeguard for personal information.

**(e) Openness**

The Colac Otway Shire Information Privacy Policy will be available on request and placed on Council's website.

**(f) Access and Correction to Information**

- (i) Individuals have a right to request access to any personal or health information held about them, and may request any incorrect information be corrected.
- (ii) Council may decide not to allow access to personal information in accordance with the exemptions contained within the Privacy and Data Protection Act 2014 and Health Records Act 2001.

**(g) Unique Identifiers**

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.

**(h) Anonymity**

- (i) Council will, where it is lawful and practicable, give individuals the option of not identifying themselves when entering into transactions with Council.
- (ii) Council will ensure that individuals are aware of all, if any, limitations to services if the information required is not provided.

**(i) Transborder Data Flows**

Colac Otway Shire will only transfer personal or health information outside of Victoria in accordance with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

**(j) Sensitive Information**

Colac Otway Shire will not collect sensitive information unless when the individual has consented or collection is required or permitted by law or when necessary for research or statistical purposes as permitted under the *Information Privacy Act 2000*.

**(k) Transfer of Closure of Health Service**

Health information relating to a discontinued Council health service will be managed in accordance with the *Health Records Act 2001*.

**(l) Making Health Information Available to Another Service Provider**

Council's Health Services will provide health information to other health providers in accordance with the *Health Records Act 2001*.

**3. DEFINITIONS**

**Personal Information** means 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.

**Health Information** means information or an opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual.

**IPPs – Information Privacy Principles.** A set of principles that regulate the handling of personal information.

**HPPs – Health Privacy Principles.** A set of principles that regulate the handling of health information.

**Sensitive Information.** Personal information or an opinion about an individual's:

- race or ethnic origin;
- political opinion;
- membership of a political association;
- religious beliefs or affiliations;
- philosophical beliefs;
- membership of a professional trade association;
- membership of a trade union;
- sexual preferences or practice; or
- criminal record

#### 4. ROLE OF PRIVACY OFFICER

The Privacy Officer/Health Records Officer handles enquiries, complaints or adjustments regarding personal or health information. Written requests for information will be responded to in writing within 10 working days of receipt unless the request is covered by *Freedom of Information Act*.

Complaints will be directed to Council's Privacy Officer in the first instance (General Manager Corporate and Community Services).

#### 5. COMPLAINTS

If a person is aggrieved by Council's handling of personal information, they may make a complaint in the first instance to Council's Privacy Officer. The complaint will be investigated as soon as possible (but no later than 10 business days) and a full written response will be provided.

Alternatively, complaints can be directed to the Privacy Commissioner, although the Privacy Commissioner can decline a complaint if a complaint has not been made to Council in the first instance.

#### 6. RELATED LEGISLATION AND OTHER REFERENCES

##### 6.1 Legislation

- *Freedom of Information Act 1982*
- *Health Records Act 2001*
- *Local Government Act 1989*
- *Privacy and Data Protection Act 2014* (replaced the *Information Privacy Act 2001*)
- *Public Records Act 1973*

It is considered that the Policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

##### 6.2 Documents

This policy is implemented in conjunction with the following documents:

- Information Privacy Manual – Records Solution
- Guidelines to the Information Privacy Principles –Office of the Victoria Privacy Commissioner

#### 7. IMPLEMENTATION AND REVIEW

This policy will be implemented by Council and is subject to periodic review.

#### ADOPTED/AMENDMENT OF POLICY

Policy Review Date	Reason for Amendment
24 May 2006	Adopted by Council
25 November 2009	Review
24 July 2013	Review
22 April 2015	Review