



Banyule  
CITY COUNCIL

# Privacy Policy



# Privacy Policy

## City Plan Reference

The Privacy Policy links to the following Objective contained within the City Plan 2013-2017.

‘Performance’ is about managing our resources wisely, providing organisational support services, strategic planning and risk management, in particular key direction 5.3:

*‘Enable good governance and accountability with minimal risk.’*

## Introduction

Banyule is committed to the aims and objectives of the Act. Banyule City 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.

Accordingly, Council is committed to full compliance with its obligations under the *Privacy and Data Protection Act 2014 (Act)*. In particular, Council will comply with the Information Privacy Principles contained in this Act. This Privacy Policy explains some of these Principles and how they will apply.

## Application period

Date policy/strategy approved: 25 November 2015

Date policy/strategy due for review: 1 July 2017.

## Legislative Context

Banyule City Council is a public body subject to the *Privacy and Data Protection Act 2014 (Act)*.

The objectives of the Act are to

- to establish a regime for the responsible collection, storage, handling and disclosure of personal information;
- to provide individuals with rights of access to information about themselves which is held by the organisation;
- to provide individuals with the right to request an organisation to correct and amend information about themselves held by the organisation, including information held by contracted service providers.

The Office of the Commissioner for Privacy and Data Protection administers the Act.

## **Victorian Charter of Human Rights and Responsibilities Act**

In developing this procedure, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established under the Victorian Charter of Human Rights and Responsibilities Act 2006 is in any way limited, restricted or interfered with by the contents of this policy.

It is considered that the Privacy Policy is consistent with, and advances rights outlined in the Charter.

The human rights most relevant to these procedures are the rights to:

- Right to privacy and reputation (section 13)

### **Other Relevant Documentation**

- 15753 Staff Code of Conduct
- 5196 Disciplinary Policy and Procedures
- 06176 Councillor Code of Conduct
- 14452 Fraud & Corruption Control Plan
- 14678 Information & Records Management Policy
- 15280 IT Guidelines for Councillors
- IT Policies & Procedures

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## Definitions and key terms used this Policy

<p><b>Personal information</b></p>	<p>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, but does not include information of a kind to which the <b>Health Records Act 2001</b> applies</p> <p>examples of such personal information may include:</p> <ul style="list-style-type: none"> <li>• name, age, weight, height;</li> <li>• income, purchases and spending habits;</li> <li>• race, ethnic origin and colour;</li> <li>• blood type, DNA code, fingerprints;</li> <li>• marital status and religion;</li> <li>• education;</li> <li>• home address and phone number;</li> <li>• credit card details;</li> <li>• rates and charges (eg notice sent to ratepayers);</li> <li>• planning approvals (eg details of applicants and objectors);</li> <li>• planning enforcement (eg witness statements, photos and records of interview);</li> <li>• information from surveys or questionnaires;</li> <li>• applications for permits under local laws (eg permit holder's details and insurance details);</li> <li>• animal registration records (eg details of owners and domestic animal businesses); and</li> <li>• records of use of Council facilities (eg enrolment and membership details).</li> </ul>
<p><b>Personal privacy</b></p>	<p>means privacy of personal information</p>
<p><b>Sensitive information'</b></p>	<p>is recorded information or opinion, whether true or not, about a readily identifiable individual (or an individual whose identity can be reasonably ascertained) that includes:</p> <ul style="list-style-type: none"> <li>• Racial or ethnic origin;</li> <li>• Political opinions or membership of a political association;</li> <li>• Religious beliefs or affiliations;</li> <li>• Philosophical beliefs;</li> <li>• Membership of a professional or trade association, or a trade union;</li> <li>• Sexual preferences or practices; or</li> <li>• Criminal record.</li> </ul>
<p><b>Primary Purpose</b></p>	<p>A primary purpose is one for which the individual concerned would expect their information to be used. Using the information for this purpose would be within their reasonable expectations.</p>
<p><b>Identifier</b></p>	<p>An identifying name or code (usually a number) assigned by an organisation to an individual to uniquely identify that individual for the purposes of the operations of the organisation. This does not include an identifier that consists only of the individual's name</p>

<b>Secondary Purpose</b>	A secondary purpose may or may not be apparent to the individual concerned, or within their reasonable expectations. Collecting the information may be mandatory (because required by law) or optional. The main distinction is that the service could still be provided even if the secondary purpose were not served.
<b>Health Information</b>	is broadly defined to include information or an opinion about the physical, mental or psychological health of an individual, a disability, an individual's expressed wishes for future provision of health services or any health service provided to an individual, or other information collected to provide or in providing a health service.
<b>Public Registers</b>	are documents that Councils are required to make publicly available pursuant to State Government legislation. These registers: <ul style="list-style-type: none"> <li>• are open to inspection by members of the public</li> <li>• contain information required or permitted by legislation</li> <li>• may contain personal information.</li> </ul>

## About Banyule City Council

As a Council it is our role to locally govern for all residents, visitors and ratepayers, and provide a range of programs and services that meet the needs of our community.

The functions of a Council as prescribed by the Local Government Act 1989 are as follows;

- (a) Advocate and promote proposals which are in the best interests of the local community;
- (b) Plan for and provide services and facilities for the local community;
- (c) Provide and maintain community infrastructure in the municipal district;
- (d) Undertake strategic and land use planning for the municipal district;
- (e) Raise revenue to enable the council to perform its functions;
- (f) Make and enforce local laws;
- (g) Exercise, perform and discharge the duties, functions and powers of councils under this act and other acts;
- (h) Any other function relating to the peace, order and good government of the municipal district.

Many of our powers and functions are assigned to us by other acts of parliament. We also enforce local laws which affect our residents, businesses and visitors to the city. See Appendix One for list of Acts and Local Laws.

We can be contacted on:

- Telephone: 9490 4222
- Email: [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au)
- Post: PO BOX 51, Ivanhoe 3079

## Policy Scope

This policy applies to all Councillors, officers and contractors of Banyule City Council.

The Privacy Policy explains how we will collect, store, use and disclose personal information of individuals, how individuals can gain access to their personal information and correct inaccuracies and how an individual may complain about possible breaches of the *Privacy and Data Protection Act 2014*.

## Policy

The ten Information Privacy Principles (IPPs) are the practical core of the Privacy & Data Protection Act. With limited exemptions, all Victorian government agencies, statutory bodies and local councils must comply with the IPPs, listed below:

- Principle 1 - Collection
- Principle 2 - Use and Disclosure
- Principle 3 - Data Quality
- Principle 4 - Data Security
- Principle 5 - Openness
- Principle 6 - Access and Correction
- Principle 7 - Unique Identifiers
- Principle 8 - Anonymity
- Principle 9 - Trans-border Data Flows
- Principle 10- Sensitive Information

### **Other Bodies Bound by the Act**

Banyule City Council provides some services through third party contractors.

All contracted service providers, including subcontractors to them, will be required to comply with the Privacy & Data Protection Act 2014.

## 1. Collection

We will only collect personal and health information that is necessary for our functions and activities. In some instances, Council is required by law to collect personal information. Council will only collect sensitive information where you have consented or as permitted under legislation. This information will be collected by fair and lawful means and not in an unreasonably intrusive way.

If it is reasonable and practical to do so, Council will collect personal and health information directly from an 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, and will use lawful and fair means. Council will only collect an individual's information from someone else if the individual's consent is provided.

Banyule City Council provides a wide range of services to the community within a broad legislative environment. Banyule holds personal information for the purposes of enabling subsequent contact, ascertaining correct property ownership within Councils' boundaries and allocating rate liability and further, undertaking specific client functions within various service environments.

Council's main services, functions and activities include:

- Aged and Disability Services
- Animals
- Arts, Culture & Heritage
- Business Support Local business initiatives
- Community Education
- Council Elections
- Environment
- Equally opportunity and access
- Emergency Management
- Facilities for Hire
- Families and Young Children
- Festivals, events and the arts
- Fire Prevention
- Grants
- Health and wellbeing
- Leisure and Recreation
- Libraries and community education
- Libraries
- Local Laws
- Parks and Gardens
- Planning and Building
- Rates
- Roads, Drains and Footpaths
- Rubbish and Recycling
- Youth and Community Partnerships

Council will provide details of:

- why it is collecting personal information;
- how that information can be accessed;
- the purpose for which the information is collected;
- with whom the Council shares this information;
- any relevant laws; and
- the consequences for the individual if all or part of the information is not collected.

Information Council typically collects:

- name
- address (postal and e-mail)
- telephone number (work, home and mobile)
- date of birth
- credit card and bank account numbers

## 2. Use and Disclosure

Council will only use personal information within Council, or disclose it outside Council, for the purpose for which it was collected or in accordance with the Act (eg where you have consented or where you would reasonably expect this to occur).

Council will only use personal information within Council, or disclose it outside Council :

- a) for the purpose it was collected;
- b) in accordance with legislative requirements;
- c) for other purposes with the consent of the individual concerned; or
- d) for operational matters related to or as a natural extension of the purpose for which it was collected.
- e) where it is considered reasonable to do so.

Where authorised, Council may also disclose personal information to:

- government agencies including the Department of Human Services, the Victorian Workcover Authority and Road Traffic Authority, Department of Health and ACIR (Australian Childhood immunisation Register)
- law enforcement agencies, including the courts and the Victoria Police, in instances where Council is required to respond to a subpoena or provide information to assist a police investigation.
- 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.
- debt collection agencies to recover council monies
- other agencies in the course of an investigation and defence of legal claims against Council. This includes Council's solicitors, consultants and investigators.
- Council discloses personal information to external organisations such as Council's contracted service providers who perform various services for and on behalf of the Council - these contractors are bound by the provisions of the Privacy and Data Protection Act 2014. Information provided to these contractors is limited to the information required by them to provide services to you on behalf of Council

### Complaints

Please note that Council will not disclose any personal information provided by you as part of a complaint to any parties who are the subject of your complaint, without your prior consent unless authorised or required by law.

Council may also use personal information contained in complaints which you make to Council as part of any prosecution undertaken as part its law enforcement functions. If you have opted to complain to Council, please note that Council may be obliged under legislation to investigate your complaint, and if necessary may initiate legal proceedings as a result of its investigation to prosecute possible offenders.

### Disclosure to other bodies

If Council is frequently asked to disclose personal information to another body, it will set out its policies in a written agreement between Council and the body to which it discloses the personal information.

## Handling information on behalf of other bodies

Any arrangements that involve Council handling personal information on behalf of another agency, will be set out clearly in a written agreement between the two agencies (unless other legislative arrangements apply). This clarifies and strengthens the chain of accountability. The agreement is to address:

- the types of personal information involved
- which officers of Council are to have access to the information
- what safeguards are to be put in place to protect the information procedures to be followed if Council mishandles the information
- arrangements for liaising between the agencies.

## 3. Data Quality

Council must take reasonable steps to make sure that the personal information it collects, uses or discloses, is accurate, complete and up-to-date.

You may amend any personal information you have supplied to Council. Details on how to do so are under Information Privacy Principle 6.

## 4. Data Security

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

Any personal information that you provide 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*.

## 5. Openness

This document and Council's website privacy statement details Council's management of personal information.

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 held by Council as outlined in 'Access and Correction'.

## 6. Access and Correction

Individuals have a right to ask for access to their personal information and seek corrections. Access will be provided except in the circumstances outlined in the Act, for example, where the information relates to legal proceedings, if it would pose a serious and imminent threat to life or health or impact the Privacy of others.

Where a person requests Council to correct their personal information, Council will take reasonable steps to notify the person of the decision of the request as soon as practicable, or within 30 days of the request being received.

Personal information cannot be removed from records, but a correcting statement may be added.

In other circumstances a request may be required under the Freedom of Information Act 1982 and must be made in writing stating as precisely as possible what information is required, and addressed to the:

Freedom of Information Officer  
Banyule City Council  
PO Box 51  
IVANHOE VIC 3079

Please contact the Freedom of Information Officer on 9490 4222 to discuss your requirements. Further information is available on Council's website.

## 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 drivers licence number). Council will only assign identifiers to records if it is necessary to enable Council to carry out a function efficiently.

## 8. Anonymity

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

However, as 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 you choose not to supply relevant personal information so that it can perform its functions.

## 9 Transborder Data Flows

Council may transfer personal information outside of Victoria only if that data transfer conforms with the reasons and conditions outlined in the Act.

Banyule City Council may transfer personal information about an individual outside Victoria only if:

- (a) Council reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to the Information Privacy Principles; or
- (b) the individual consents to the transfer; or
- (c) the transfer is necessary for the performance of a contract between the individual and Council, or for the implementation of pre-contractual measures taken in response to the individual's request; or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between Council and a third party; or
- (e) all of the following apply:
  - (i) the transfer is for the benefit of the individual;
  - (ii) it is impracticable to obtain the consent of the individual to that transfer;
  - (iii) if it were practicable to obtain such consent, the individual would be likely to give it; or
- (f) Banyule City Council has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Information Privacy Principles.

## 10. Sensitive Information

Banyule City Council will not collect sensitive information about an individual unless:

- (a) the individual has consented; or
- (b) the collection is required by law; or
- (c) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:
  - (i) is physically or legally incapable of giving consent to the collection;
  - (ii) or physically cannot communicate consent to the collection; or
- (d) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

However, Banyule City Council may collect sensitive information about an individual if the collection:

- (i) is necessary for research, or the compilation or analysis of statistics, relevant to government funded targeted welfare or educational services; or
- (ii) is of information relating to an individual's racial or ethnic origin and is collected for the purpose of providing government funded targeted welfare or educational services; and
- (iii) there is no reasonably practicable alternative to collecting the information for that purpose; and
- (iv) it is impracticable for the organisation to seek the individual's consent to the collection.

## 11. Other Information

If the Privacy and Data Protection Act 2014 is inconsistent with a particular piece of legislation, the other legislation will take precedence. Council will have regard to any Privacy Guidelines issued by the Privacy & Data Protection Commissioner.

## 12. Enquiries and Complaints Concerning Information Privacy

Banyule City Council is committed to efficient and fair resolution of complaints. Banyule's Privacy Officer will investigate complaints and a written response will be provided as soon as possible.

Members of the public may make a complaint to the Privacy and Data Protection Commissioner if they believe that a Victorian Government agency or local council has failed to comply with one or more of the Information Privacy Principles. The Commissioners Office requires a complaint to have been made with the relevant organisation in the first instance.

### Complaints may be sent to:

Privacy Officer  
Banyule City Council  
PO BOX 51  
IVANHOE 3079  
Telephone: 9490 4222  
[enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au)

## 13. Breach of Policy

Failure to comply with this policy, shall be dealt with in accordance with the Councillors Code of Conduct and for staff in accordance with Banyule City Council's Disciplinary Policy Procedure. It also may be a cause for investigation under Banyule's Fraud & Corruption Control Plan and other related documents/policies.

## Appendix I

Banyule performs its function through the enforcement and administration of various Victorian Acts, Regulations and through Council Local Laws, the following is a listing of the key laws impacting Banyule City Council, these Acts generally include Regulations for Council to comply with also:

### Key laws impacting Council

- Building Act 1993
- Cemeteries & Crematoria Act 2003
- Country Fire Authority Act 1958
- Charter of Human Rights and Responsibilities Act 2006
- Disability Act 2006
- Domestic Animals Act 1994
- Emergency Management Act 1986
- Environment Protection Act 1970
- Fences Act 1968
- Filming Approval Act 2014
- Food Act 1984
- Freedom Of Information Act 1982
- Heritage Act 1995
- Health Records Act 2001
- Information Privacy Act 2000
- Infringements Act 2006
- Land Acquisition And Compensation Act 1986
- Local Government (Finance And Reporting) Regulations 2004
- Local Government (Planning and Reporting) Regulations 2014
- Local Government Act 1989
- Occupational Health and Safety Act 2004
- Planning and Environment Act 1987
- Privacy & Data Protection Act 2014
- Protected Disclosure Act 2012
- Public Health And Wellbeing Act 2008
- Public Records Act 1973
- Road Management Act 2004
- Road Safety Act 1986
- Subdivision Act 1988
- Transfer of Land Act 1958
- Valuation Of Land Act 1960

### Local Laws

- General Local Law No.1 (2015)
- Governance Local Law No.2 (2015)