

# Information Privacy and Health Records Policy



**Moreland**  
City Council

Policy ID no: DBT 30 - CEO

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<b>Review Date:</b>	April 2021
<b>Responsible Department</b>	Corporate Governance

Nerina Di Lorenzo  
**Chief Executive Officer**

8 May 2019

# 1 Introduction

Council delivers a range of services throughout the municipality, some of which require the sharing of personal or health information by our community or customers. This policy is designed to provide clear guidance to ensure that Council manages the handling of personal information or health records in accordance with the *Privacy and Data Protection Act 2014* and the *Health Records Act 2011*.

## 2 Context

### 2.1 Alignment

This policy addresses responsibilities relating to information privacy in accordance with the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)*. It further responds to the key principles established in these acts – the Information Privacy Principles and the Health Privacy Principles.

This policy is aligned to Council's Information Management policy, however provides specific guidance as to how the privacy of an individual's personal and health information will be managed by Council. This includes Council's role as both a local government authority and as an employer.

### 2.2 Organisational Context

This Policy supports Council's strategic objective to be a 'Responsible Council'. Council collects personal and health information, including:

- Title
- First name
- Surname
- Address
- Age
- Sex
- Marital Status / Domestic Partner Status
- Signature
- Photograph
- Credit card details
- Motor vehicle registration number

Purposeful collection of personal or health information including, but not limited to:

- Library membership
- Venue hire
- Sports ground hire
- Community engagement practices
- Engagement on Council's Social media platforms
- Pet registration
- Rates
- Attendance at Council meeting
- Enquiries/Complaints
- Infringement notices
- Maternal and Child Health and Immunisations
- Family Day Care
- School Holiday Program
- Aged Services
- Council events, meetings (including photographic images or video footage)
- Marketing, Research and Communications activities (including photographic images or video footage)

- Enforcement activities (including photographic images or video footage)
- Permit applications including environmental health, local law, building and planning

This Policy is supported by the following legislation:

- *Privacy and Data Protection Act 2014 (Vic)*
- *The Privacy Act 1988*
- *Health Records Act 2001 (Vic)*
- *Freedom of Information Act 1982*
- *Family Violence Protection Act 2008*
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Local Government Act 1989*
- *Equal Opportunity Act 2010*

### 3 Objectives

The protection of personal and health information is a key aspect of good governance, accountability and integrity in all of Council's services and legislative functions. This Policy supports Council's commitment to managing personal and health information appropriately.

This policy aims to:

- Establish a regime for the responsible collection, storage, handling, sharing and disclosure of personal and health information;
- Provide individuals with rights of access to information about themselves held by Council; and
- Provide individuals with the right to request corrections to their personal information held by Council.

### 4 Policy Details

#### 4.1 Statement of Commitment

Moreland City Council is committed to protecting the privacy of personal and health information it collects and uses, by complying with its obligations under the Privacy and Data Protection Act 2014 (Vic) and the Health Records Act 2001 (Vic) (the Acts). Council has a policy that outlines the requirements for the management and handling of Personal and Health Information.

Obligations under the above Acts apply to Councillors, Council staff (employees), agents (consultants, agency staff and volunteers) and contracted service providers and is a mandatory requirement in any new or existing contract.

#### 4.2 What type of information does Council collect?

- Council collects personal information necessary for Council's functions or activities, by lawful, fair and reasonable means and preferably collect it from the individual concerned.
- Where lawful and practicable, a person may be anonymous when interacting with Council. However, identification may be necessary when lodging a complaint with Council to prevent malicious or non-genuine complaints.
- Council may collect sensitive information but will only do so where the person has given prior consent or as permitted under the Acts.
- Council's website can be visited anonymously as the site does not record or collect personal information other than information a person may choose to provide by email or on-line payments.

### 4.3 What does Council do with information?

- Council uses or discloses information for the primary purpose for which it was collected or for a related secondary purpose an individual would reasonably expect.
- Where the individual consents, for law enforcement purposes, where required by law or for other prescribed exceptions.
- Sometimes a person's consent may be sought to use personal information for improving communications from Council.
- Council will only assign unique identifiers to individuals if it is necessary to carry out functions efficiently and will not use unique identifiers created by other organisations (i.e. Medicare).
- Council will make an individual's Health Information available to another health service provider where requested to do so by the individual, their agent, or where required by law or for other prescribed exceptions.

### 4.4 What disclosures might be made?

- At or near the time of collection, Council will notify the individual of why the personal or health information is being collected, what usual disclosures may be made, if the collection is required by law and their right to access the information.
- To contracted service providers that undertake works or service on Council's behalf. Where an external contractor deals with personal information or health records on behalf of Council, they will be required to comply with the Information Privacy Act or the Health Records Act, whichever is applicable.
- If the use or disclosure of health information about someone is not related to the primary purpose of collection then Council must obtain the consent of that person (or authorised representative), unless the use or disclosure is required by or under law.
- Provisions that require and permit the collection, use or disclosure of confidential information (including personal information and health information) for family violence assessment or protection (risk management) purposes.
- However, there are some special situations where Council can use or disclose health information without consent. For example, if the Council believes that the use or disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare or public health, public safety or public welfare.
- Council may also make a disclosure of health information for compassionate reasons if the above-mentioned criterion is met.
- To Council's legal advisors, insurance claims agents and insurance providers, for the purposes of complaints or insurance claims investigation and resolution.
- Council may transfer personal information about an individual to someone (other than Council or the individual) outside Victoria only if prescribed conditions apply.
- Where disclosure is for law enforcement a record will be made of the disclosure.
- Council may transfer personal information outside of Victoria only if that data transfer conforms to the reasons and conditions outlined in the *Privacy and Data Protection Act 2014 (Vic)*.
- Where it is determined disclosure would be in the public interest.

Such a decision would require the following steps:

- A briefing from Council's Privacy Officer to the Chief Executive Officer on the matter, outlining:
  - the reasons the disclosure would be in the public interest; and
  - demonstration that all alternative avenues have been assessed.
- Consultation with the Office of the Australian Information Commissioner to consider:
  - the necessity for the public interest disclosure;
  - any alternative options that would not breach the privacy principles;
  - the terms of the public interest disclosure, if it proceeds; the information to be included; and a comparison with previous determinations under the Privacy Act.

#### **4.5 What does Council do to ensure information is accurate, up to date and secure?**

- Council takes reasonable steps to ensure personal information is accurate, complete, up-to-date and relevant.
- Council takes reasonable steps to protect personal information held from misuse, loss, unauthorised access, modification or disclosure.
- Council will destroy or permanently de-identify (if possible) information no longer required under the guidance of Records Management. Provisions dealing with retention in other Acts, e.g. Public Records Act, apply to Council.
- Council records will be stored in accordance with the Information Management Policy and Information Security Policy.
- Council employs a range of procedural, physical, software and hardware safeguards, together with access controls, secure methods of communication and a disaster recovery plan to protect information from a breach of privacy, misuse and loss or unauthorised access or disclosure.

#### **4.6 How can a person access or correct information held by Council?**

- An individual may ask for access to their personal or health information with the relevant Council Department, which will be subject to a standardised process.
- Provide the individual with access to personal information on request by the individual, except to the extent that prescribed exceptions apply.
- If an individual establishes that the information is not accurate, complete and up-to-date, take reasonable steps to correct the information.
- Where the above may not be appropriate, access to personal information under the Freedom of Information Act will apply to Council. Formal requests for access to documents will be handled in accordance with the *Freedom of Information Act 1982*. Enquiries should be addressed to:

FOI Officer  
Moreland City Council  
90 Bell Street  
Coburg 3058

Or via email to: [FOI@moreland.vic.gov.au](mailto:FOI@moreland.vic.gov.au)

### **Protecting your Privacy**

#### **4.7 Privacy Policy Statement**

Where practical, a statement outlining Council's policy regarding the handling of Personal and Health Information will be used at all points of collection, and for all outgoing correspondence that may request or contain personal information.

This applies to both hardcopy and electronic communication.

#### **4.8 Privacy Collection Notice**

A 'privacy collection notice' will be provided at all points of collection, including online forms, hard copy forms and telephone calls made to Council's primary customer contact phone line. This privacy notice will be tailored to the purpose of information collection, and include:

- The identity of Council and how to contact us;
- The fact that the individual is able to gain access to the information;
- The purpose for which the information is collected;
- To whom (or the types of individuals or organisations to which) the organisation usually discloses information of that kind;
- Any law that requires the particular information to be collected; and
- The main consequences (if any) for the individual if all or part of the information is not provided.

#### **4.9 Administration**

The Unit Manager Governance is Council's Information Privacy Officer, supported by the Manager Corporate Governance, Governance Team Leader and FOI and Governance Advisor. The Information Privacy Officer has the responsibility to assist Council comply with its obligations under the *Privacy and Data Protection Act 2014* and is authorised to provide advice and receive complaints and requests for access and correction. The Information Privacy Officer may be required to seek legal advice if required.

The Information Privacy Officer is responsible for preparing and periodically updating the policy and guidelines and submitting them to the Moreland Executive Group for approval, ensuring that staff understand the Information Privacy and Health Records Policy and, when necessary, liaising with the senior management group to ensure compliance with the Act. The Information Privacy Officer is responsible for organising regular privacy training across the organisation for all Council staff.

The Information Privacy and Health Records Policy will be reviewed from time to time to take into account significant changes in legislation that are made that affect the accuracy of the policy document or as required by the Moreland Executive Group.

#### **4.10 Breaches**

Upon becoming aware that there has been a breach or potential breach of the Information Privacy and Health Records Policy, Council staff must notify their direct supervisor without delay. The direct supervisor must then notify their direct Manager and Council's Privacy Officer immediately.

A breach containment and preliminary assessment is then completed by the Privacy Officer which includes an evaluation of the risks associated with the breach, notification to Risk Management and Communications internally and subsequent notification of the breach to the individual without delay.

At this time implementation of a process to mitigate risk and the possibility of such a breach occurring again is completed.

A Privacy Impact Assessment may also be conducted to ensure that the issues raised have been addressed, and that changes have been made or developed to comply with privacy obligations.

#### **4.11 How do I make a Privacy Complaint or Enquiry to Council?**

The Privacy Officer will also be the Health Records Officer, and will handle 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 the Freedom of Information Act.

Enquiries or Complaints will be directed to Council's Privacy Officer:

Privacy Officer  
Corporate Governance  
90 Bell Street  
COBURG VIC 3058  
Phone: (03) 9240 1111  
E-mail: [privacyofficer@moreland.vic.gov.au](mailto:privacyofficer@moreland.vic.gov.au)

However, if a person has received no response or a response that they consider to be inadequate, they may approach the Government's Privacy and Data Protection Commissioner or Health Services Commissioner for resolution.

## 5 Roles and Responsibilities

Party/parties	Roles and responsibilities	Timelines
All staff	Implementation of the Information Privacy and Health Records Policy	Ongoing
Branch Managers	A procedural framework for key services and functions that incorporates guidance on the management of personal and health information in accordance with the Information Privacy and Health Records Policy and the Acts.	Ongoing
Freedom of Information & Governance Advisor	Support the management of information in accordance with the Policy across Council and the investigation and response to complaints.	Ongoing
Legal Services Officers	Advice and guidance on legal implications of a Privacy Request or breach of the Acts.	Ongoing
Manager Corporate Governance	Responsible for corporate management of Information Privacy, driving awareness, training and management of information privacy across council and response to complaints.	Ongoing
Team Leader Governance	Designated Officer to raise education and awareness of policy, investigate and respond to complaints as required.	Ongoing
Unit Manager Governance	Designated Privacy Officer to raise education and awareness of policy, investigate and respond to complaints as required.  Conduct annual assessment of compliance with policy	Ongoing

## 6 Monitoring, Evaluation and Review

This policy will be reviewed annually and updated as necessary.

Organisational compliance with this policy will be subject to an annual review conducted by the Privacy Officer.

## 7 Definitions

Term	Definition
Agent	Agent is an individual or organisation employed by Council to perform a service that involves handling personal information. An agency relationship will mean that Council will usually be held responsible for how their agents (like their employees) handle personal information.
Confidentiality	A concept that relates to, but is different to, privacy. An obligation of confidence is generally owned by the recipient of information to the provider of the information. (Compared to privacy which is the right to the subject of information, no matter who provided it or who received it).
Contracted service Providers	All third parties engaged directly by Council to provide goods or services directly to Council or third parties at Councils discretion.

<b>Term</b>	<b>Definition</b>
Health Information	<p>Information or an opinion about:</p> <ul style="list-style-type: none"> <li>• the physical, mental or psychological health of an individual;</li> <li>• a disability of an individual;</li> <li>• an individual's expressed wishes about the future provision of health services to him or her;</li> <li>• a health service provided, or to be provided, to an individual that is also personal information; or</li> </ul> <p>Other personal information, including personal information:</p> <ul style="list-style-type: none"> <li>• collected to provide, make referral or in providing, a health service</li> <li>• 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>• 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>
Health Service	<p>An activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organisation performing it:</p> <ul style="list-style-type: none"> <li>• to assess, maintain or improve the individual's health;</li> <li>• to diagnose the individual's illness, injury or disability;</li> <li>• to treat the individual's illness, injury or disability or suspected illness, injury or disability;</li> <li>• a disability service, palliative care service or aged care service;</li> <li>• the dispensing of a prescribed drug or medicinal preparation by a pharmacist; or</li> <li>• a service, or class of service, provided in conjunction with an activity or service referred to in the above dot points that are prescribed as a health service.</li> </ul> <p>But does not include a health service, or class of health service, which is exempt for the purpose of the Health Records Act.</p>
Personal Information	<p>Information or an opinion (including information or an opinion forming part of a database, work related information or images) 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.</p>
Sensitive Information	<p>Information about a person's racial or ethnic origin, political opinions, philosophical or religious beliefs, sexual preferences, criminal record or membership of a trade union, profession, political or trade associations.</p>
Unique identifiers	<p>An identifier (usually a number) assigned by Council to an individual to identify that individual for the purposes of the operations of Council, but does not include an identifier that consists only of the individual's name.</p>

## **8 Associated Documents**

Information Management Policy

Freedom of Information Procedures

Protected Disclosure Procedures

## **9 References**

*Privacy and Data Protection Act 2014 (Vic)*

*Privacy Act 1988*

*Health Records Act 2011 (Vic)*

*Freedom of Information Act 1982 (Vic)*

*Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)*

*Family Violence Protection Act 2008*

*Local Government Act 1989 (Vic)*

*Public Records Act 1973*

Moreland Gender Equality Commitment

Moreland Human Rights Policy