



PRIVACY POLICY AND GUIDELINES

SEPTEMBER 2002

Table of Contents

	Page No
1. PURPOSE	1
2. DEFINITIONS.....	1
3. OUTLINES OF PRINCIPLES.....	3
3.1 SUMMARY.....	3
3.2 PRINCIPLE 1 - COLLECTION	4
3.3 PRINCIPLE 2 - USE AND DISCLOSURE.....	6
3.4 PRINCIPLE 3 – DATA QUALITY.....	6
3.5 PRINCIPLE 4 – DATA SECURITY	7
3.6 PRINCIPLE 5 - OPENNESS	7
3.7 PRINCIPLE 6 - ACCESS AND CORRECTION	8
3.8 PRINCIPLE 7 -UNIQUE IDENTIFIERS	9
3.9 PRINCIPLE 8 - ANONYMITY	10
3.10 PRINCIPLE 9 –TRANS-BORDER DATA FLOWS	10
3.11 PRINCIPLE 10 - SENSITIVE INFORMATION	11
3.12 PRINCIPLE 11 – TRANSFER/CLOSURE OF THE PRACTICE OF A HEALTH SERVICE PROVIDER.....	12
3.13 PRINCIPLE 12 – MAKING INFORMATION AVAILABLE TO ANOTHER HEALTH SERVICE PROVIDER.....	12
4. PROCEDURE.....	13
4.1 EXTERNAL CONTRACTORS.....	13
4.2 COMPLAINTS	13
4.3 IMPORTANT BODIES	13
4.4 OPTIONS FOR MINIMISING RISK OF BREACHING THE PRIVACY PRINCIPLES..	13
4.5 CHARGES	14
4.6 SOME HELPFUL WEBSITES.....	14
5. OTHER LEGISLATION AND COUNCIL POLICIES	15
6. CHANGES	16
7. FURTHER INFORMATION.....	16
SCHEDULE 1 FUNCTIONS OF COUNCILS.....	17

1. PURPOSE

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 *Information Privacy Act 2000* (Vic) and the *Health Records Act 2001*(Vic) (the Acts). In particular, Council will comply with the ten Information Privacy Principles and eleven Health Privacy Principles contained in the Acts.

This Privacy Policy explains these Principles and how they apply to Councillors, Council staff and contractors.

2. DEFINITIONS

Key terms used in this Privacy Policy are "personal information", "sensitive information", "health information" and "Council purposes, functions and powers". These terms are defined below.

Personal Information

"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 (excluding health information).

For example, "personal information" includes:

- name, age, weight, height;
- income, purchases and spending habits;
- race, ethnic origin and colour;
- blood type, DNA code, fingerprints;
- marital status and religion;
- education;
- home address and phone number.

This includes personal information relating to both clients of Council and Council staff. For example, Council holds personal information on its ratepayers (e.g. names and addresses) in order to carry out its functions (e.g. planning, valuation and property services). It may also request personal information in order to provide education, welfare and other community services (e.g. child care services). In some instances, personal information may be contained on a public register (register of building permits, food premises and animal registration details). Council also

contains personal information its employee records (eg payroll details and leave entitlements).

"Third party", in relation to *personal information*, means a person or body other than the organisation holding the information and the individual to whom the information relates.

Sensitive Information

“Sensitive information” means personal information about an individual’s:

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

Health Information

“Health Information” means personal information or opinion about:

- an individual's physical, mental or psychological health (at any time); or
- an individual's disability (at any time); or
- expressed wishes about the future provisions of health services to him or her; or
- health services provided, or to be provided, to an individual; or
- an individual collected to provide a health service to him or her (eg disability or aged care service, immunisation service or maternal and child health care service).

For example Council holds health information on clients who require home help services and family day care services.

Council Purposes, Functions and Powers

The Local Government Act 1989 defines Council purposes, functions and powers as follows:

- Council's purposes are:
 - (a) to provide for the peace, order and good government of its municipal district; and
 - (b) to facilitate and encourage appropriate development of its municipal district in the best interests of the community; and
 - (c) to provide equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively; and
 - (d) to manage, improve and develop the resources of its district efficiently and effectively.
- Council's functions are those specified in Schedule 1 to this Privacy Policy, including any other function conferred on councils under legislation. For example, they include animal control, litter control, health, education, welfare and other community services, planning, building and property services, and recreational and cultural services, tourism and environmental control.
- Council has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions and to enable it to achieve its purposes and objectives.

3. OUTLINES OF PRINCIPLES

3.1 SUMMARY

This Privacy Policy outlines 12 principles for Councillors, Council staff and contractors to note and observe.

The Twelve Principles:

- 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
- Principle 11 - Transfer/closure of the practice of a health service provider.
- Principle 12 - Making information available to another service provider

3.2 PRINCIPLE 1 - COLLECTION

Council will only collect personal, sensitive and health information that is necessary for specific and legitimate functions and activities. In some instances, Council is required by law to collect this information. Council will only collect sensitive and health information where the individual has consented or as permitted under the Act.

If it is reasonable and practicable to do so, Council will collect personal, sensitive and health information about a person directly from that individual. When doing so, it will inform the person 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.

Guidelines (For Principle 1)

Council staff should have a clear purpose for collecting each piece of personal information. They should determine this purpose before collecting the information. Collecting information just because it may be useful in the future is generally not acceptable.

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

Council will collect this information in a way that does not put undue pressure on the person giving the information. When Council interviews someone, it will try to tell the person about the interview in advance and conduct it in a private place.

When is collecting personal information intrusive?

Collecting personal, sensitive or health information will be intrusive if it involves:

- asking questions about sensitive personal affairs;
- ways of collecting personal information that require physically touching people, observing their bodily functions, or that invade their private property; and
- repeatedly and unnecessarily asking for the same information.

Staff must think carefully before they use an intrusive method of collecting this information. They will decide whether or not to use an intrusive method of collecting information based on the importance of its purpose of collection and other circumstances.

Forms

The following notation should be included on forms used to capture and collect personal, sensitive or health information:

Privacy Notification

The personal information requested on this form is being collected by Council for [insert functional purpose]. This information will be used solely by Council for that primary or directly related purposes. The applicant understands that the personal information provided is for the [insert functional purpose] and that they may apply to Council for access and/or amendment of the information.

Does Council only have to tell a person the main reason for collecting the information?

Normally, the purpose of collection depends on the reason Council is collecting the information at the time it collects the information. However, sometimes Council knows the information will also be used for other purposes. If so, Council should tell the person about the other uses when it collects the information.

It will often be necessary to look carefully at the facts and context in which information is being used, to determine whether it falls within the definition of personal information.

Personal Information Currently Held by Council

Council holds personal, sensitive and health information in the following formats:

- Public Registers administered under various Acts
- General correspondence files
- Personnel files
- Client files
- Property files
- Rate database
- Valuations database
- Customer Service database
- Mailing lists.

3.3 PRINCIPLE 2 - USE AND DISCLOSURE

Council will only use personal, sensitive or health information within Council, or disclose it outside Council, for the purpose for which it was collected or in accordance with the Act (eg where consent has been provided).

Guidelines (For Principle 2)

What is a use?

Use is interpreted broadly. It relates to managing personal information within the course of Council business. As a general rule, any accessing by Council staff of personal information in its control is a "use". This includes:

- searching records for any reason;
- using personal information in a record to make a decision;
- passing a record from one part of Council to another part with a different function.

Use also includes publishing personal information. This especially applies to public registers containing personal information, which are required by law to be maintained by Council and made available to the public or open to inspection.

3.4 PRINCIPLE 3 – DATA QUALITY

Council is responsible for the quality of the personal, sensitive and health information it holds. Council is required to take all reasonable steps to ensure that this information it holds is accurate and, given the purpose of the information, is relevant, up to date, complete and not misleading. It is,

therefore, the responsibility of Council to ensure that the information it holds is of high quality.

Guidelines (for Principle 3)

These are continuing obligations. Council must take reasonable steps to ensure the quality of the information it holds throughout the period for which it holds the information, not just when the information is collected.

3.5 PRINCIPLE 4 – DATA SECURITY

Council will endeavour to maintain a secure system for storing personal, sensitive and health information. Technological and operational policies and procedures are in place to protect this information from misuse and loss and from unauthorised modification or disclosure. Council will lawfully and responsibly destroy or permanently de-identify this information where it is no longer necessary to fulfil the purposes for which the information was collected or as required by law.

Guidelines (for Principle 4)

Filing cabinets, safes and compactuses containing records of personal, sensitive and health information should not be left unlocked. All paper records containing this information should be held on official Council files and recorded on Council's records management system. Files should have security classifications reflecting the importance or sensitivity of the records held on them. Storage and access arrangements should reflect the security classification. Movements of files should be recorded on Council's records management system, particularly if the files are being forwarded to another office. Where microfiche records are still in use, a register should be kept to ensure that none are missing. Thermal paper faxes are unstable and should be copied onto plain paper before filing to avoid potential loss of data. Computer systems should also apply relevant security.

A clean desk policy, under which all papers are required to be securely stored at the end of the working day rather than left on the desk, is good practice. This reduces the risk of personal, sensitive and health information being left lying around and being seen or taken by unauthorised people.

Information about real people should not be used in training material. At a minimum, fictitious names should be used, and care should be taken to ensure that the person cannot be identified from the context. Irrelevant personal information, or unrelated personal information about third parties, should not be included in any files. If such information is kept, there is a risk that it may be wrongly disclosed or used.

3.6 PRINCIPLE 5 - OPENNESS

Council must make publicly available its policies relating to the management of personal information. In addition, Council must, on request, take

reasonable steps to provide individuals with general information on the types of personal information it holds and for what purposes and how it collects, holds, uses and discloses that information.

Accordingly, this Privacy Policy will be made available to the public as well as to Councillors, Council staff and contractors.

Guidelines (for Principle 5)

In order to be able to exercise their other rights in relation to the personal information that Council hold about them, people must be able easily to find out:

- the existence of personal information systems that affect them;
- the nature and extent of those systems;
- the main purposes and uses of those systems; and
- how to gain access to personal information held in them.

Internal access

Consideration will be given to which Council staff, by position or function, are entitled to have access to personal information held in particular classes of records.

Complaints

Although there is no obligation to do so, Council encourages individuals to send written complaints directly to Council about a breach, or perceived breach, of privacy in the first instance. Alternatively, complaints can be directed to the Privacy Commissioner.

3.7 PRINCIPLE 6 - ACCESS AND CORRECTION

Should you wish to access your personal, sensitive or health information, please contact Council's Privacy Officer (telephone (03) 9433 3197). Access will be provided except in the circumstances outlined in the Acts, for example, where the information relates to legal proceedings or where the Freedom of Information Act 1982 applies.

If you believe that your information is inaccurate, incomplete or out of date, you may request Council to correct the information. Your request will be dealt with in accordance with the Acts.

Guidelines (for Principle 6)

Council must provide access to information held by Council about an individual on request except in specific circumstances as outlined within the Acts.

Where Council holds personal, sensitive or health information about an individual and the individual is able to establish that information is incorrect, Council will take reasonable steps to correct information as soon as practicable but within 45 days of the request. If, however, Council denies access or correction, Council will provide reasons.

In the event that Council and an individual disagree about the veracity of information held by Council, Council will take reasonable steps to record a statement relating to the disputed information if requested by the individual.

3.8 PRINCIPLE 7 -UNIQUE IDENTIFIERS

Council must not assign, adopt, use, disclose or require unique identifiers from individuals except for the course of conducting normal Council business or if required by law. Council will only use or disclose unique identifiers assigned to individuals by other organisations if the individual consents to the use and disclosure or the conditions for use and disclosure set out in the Act are satisfied.

Guidelines (for Principle 7)

A unique identifier is a string of characters, usually a number, used to identify particular individuals. If the same identifier is used by different organisations, it can be a very effective tool for bringing together information about a single individual from a number of different sources. This raises privacy concerns, as the Australia Card debate of the late 1980s demonstrated. The Council must be able to use unique identifiers to manage its affairs and identify its client. This is an essential tool for ensuring high data quality and providing a high standard of service.

1. Council shall not assign a unique identifier to an individual unless the assignment of that identifier is necessary to enable Council to carry out any one or more of its functions effectively;
2. Council shall not assign to an individual a unique identifier that, to Council's knowledge, has been assigned to that individual by another agency.
3. If Council assigns unique identifiers to individuals all reasonable steps should be taken to ensure that unique identifiers are assigned only to individuals whose identity is clearly established;
4. Council shall not require an individual to disclose any unique identifier assigned to that individual unless the disclosure is for one

of the purposes in connection with which the unique identifier was assigned or for a purpose that is directly related to one of those purposes.

3.9 PRINCIPLE 8 - ANONYMITY

Where lawful and practicable, Council will give individuals the option of not identifying themselves when supplying information or entering into transactions with Council.

Guidelines (for Principle 8)

Related to limitations on the collection of personal, sensitive and health information is the idea that where possible people should be able to go about their business anonymously. People should have the option of not identifying themselves when entering transactions.

This principle is primarily applicable to the design of information systems. Once a system is in place, its informational requirements are often inflexible. The popularity of anonymising features on the Internet suggests both that many people see maintaining anonymity as an important part of defending their information privacy and that in the electronic environment it is often feasible to restrict the collection of identified information, while still providing people and organisations the confidence they need to transact their business.

While the option of anonymity clearly does give people an opportunity to protect their privacy, a qualification like 'where possible' or 'where practicable' is necessary to accommodate situations where the effectiveness of a system requires the collection of the information.

3.10 PRINCIPLE 9 –TRANS-BORDER DATA FLOWS

Council may transfer personal, sensitive or health information outside of Victoria only if that data transfer conforms to the reasons and conditions outlined in the Acts.

Guidelines (for Principle 9)

Council may transfer personal, sensitive or health 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 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) 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 Privacy Principles.

3.11 PRINCIPLE 10 - SENSITIVE INFORMATION

Council must not collect sensitive information about an individual except for circumstances specified under the Act.

Guidelines (For Principle 10)

Council must 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; or
 - (ii) 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, 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.

3.12 PRINCIPLE 11 – TRANSFER/CLOSURE OF THE PRACTICE OF A HEALTH SERVICE PROVIDER

This Privacy Principle applies only where Council is providing a health service.

If Council no longer provides a particular health service, it must give notice of the transfer or closure to past service users.

Guidelines (For Principle 11)

On closure of any health service, Council will take reasonable steps to notify all past service users that the service is no longer being offered and that they are welcome to have access to their records.

3.13 PRINCIPLE 12 – MAKING INFORMATION AVAILABLE TO ANOTHER HEALTH SERVICE PROVIDER

This Privacy Principle also applies only where Council is providing a health service.

As a health service provider, Council must make health information relating to an individual available to another health service provider if requested by the individual.

Guidelines (For Principle 12)

On receiving written advice from an individual, all health records must be made available to another health service provider as requested by the individual.

4. PROCEDURE

This part of the Privacy Policy outlines Council's organisational procedures.

4.1 EXTERNAL CONTRACTORS

While personal, sensitive and health information is usually handled by Council staff, Council may outsource some of its functions to third parties. This may require the contractor to collect, use or disclose some of this information (eg garbage collection). It is Council's intention to require contractors to comply with the Privacy Principles in all respects.

4.2 COMPLAINTS

If you feel aggrieved by Council's handling of your personal information, you may make a complaint to Council's Privacy Officer (telephone (03) 9433 3197). Your complaint will be investigated as soon as possible (but no later than five (5) business days) and you will be provided with a written response. Alternatively, you may make a complaint to the Privacy Commissioner (in respect of personal and sensitive information), or the Health Commissioner (in respect of health information), although the Commissioners may decline to hear the complaint if you have not first made a complaint to Council.

4.3 IMPORTANT BODIES

Council has appointed:

- **A Privacy Officer** to whom all enquiries/complaints about Personal Privacy will be referred.
- **A Privacy Committee** on which at least one person will be a Senior Officer and including the Information Privacy Officer.

The Privacy Officer will liaise with the Information Privacy Committee on this Policy and take guidance from it whenever given.

The Privacy Committee will oversee this Privacy Policy, monitor performance under it, promote any desirable amendments to it and report annually to Council on Council's performance pursuant to it.

4.4 OPTIONS FOR MINIMISING RISK OF BREACHING THE PRIVACY PRINCIPLES

As considered appropriate, Council will implement the following options as a way of minimising the risk of breaching the Privacy Principles:

- Training available staff in privacy requirements (including the Council's policy on use and disclosure).

- Having the Privacy Officer available to advise on how the Privacy Principles apply in cases where this is not clear.
- If Council is frequently asked to disclose personal, sensitive or health information to another body, setting out its policies in a written agreement between Council and the body.
- For arrangements that involve Council handling personal information on behalf of another agency, setting out the respective responsibilities in a written agreement between the two agencies (unless other legislative arrangements apply). This clarifies and strengthens the chain of accountability.

4.5 CHARGES

While Council sees the management of personal, sensitive and health information in accordance with the Privacy Principles as part of its overall policy, the Privacy Officer will retain a discretion to apply normal copying charges where copies of information are requested.

4.6 SOME HELPFUL WEBSITES

A list of some helpful websites is as follows:

<http://www.privacy.gov.au/links/index.html> Federal and State sites etc.

<http://www.privacy.gov.au/links/index.html#State%20Government%20links>
NSW Health and NSW Privacy Commissioner

<http://www.lawlink.nsw.gov.au/pc.nsf/paaes/plansmade> What Privacy Management Plans are Available on the Internet

http://www.lawlink.nsw.gov.au/agd.nsf/pages/privacy_12

NSW Attorney General's Strategies for Compliance' + 12.6. ~nterna~ Review

<http://www.privacy.gov.au/links/index.html#Australian%20privacy%20interest%20gro>

Overseas Links

<http://www.understanding-privacy.com/content/prn-c/index.cfm>

<http://www.understanding-privacy.com/content/pnuc/pms/privacymadesimple.pdf>

<http://www.ualberta.ca/alri/ulc/95pro/e95m.htm>

<http://www.unesco.org/webworld/observatory/doc~rivacy/transborder~rivacy.shtml>

http://www.privcom.gc.ca/information/02_05_d_08_e.asp

5. OTHER LEGISLATION AND COUNCIL POLICIES

If the Privacy Principles are inconsistent with a particular piece of legislation, the other legislation will take precedence.

Legislation Under Which Council Operates

Building Act 1993

Cemeteries Act 1958

Children's Services Act 1996

Country Fire Authority Act 1958

Crown Land (Reserves) Act 1978

Disability Services Act 1991

Domestic (Feral and Nuisance) Animals Act 1994

Electronic Transactions Act 2000

Environment Protection Act 1970

Fences Act 1968

Food Act 1984

Health Act 1958

Freedom of Information Act 1982

Health Records Act 2001

Heritage Act 1995

Impounding of Livestock Act 1994

Intellectually Disabled Person's Services Act 1986

Libraries Act 1988

Litter Act 1987

Local Government Act 1989

Magistrate's Court Act 1989

Occupational Health and Safety Act 1985

Ombudsman Act 1973

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987
Prevention of Cruelty to Animals Act 1986
Public Records Act 1973
Road Safety Act 1986
Subdivision Act 1988
Summary Offences Act 1966
Tobacco Act 1987
Transfer of Land Act 1958
Transport Act 1983
Unclaimed Monies Act 1962
Valuation of Land Act 1960
Victorian Civil and Administrative Tribunal Act 1998
Whistleblowers Protection Act 2001

6. CHANGES

Council may amend this Privacy Policy from time to time.

7. FURTHER INFORMATION

If you have any queries about this Privacy Policy, please contact Council's Privacy Officer (telephone (03) 9433 3197), or through Council's web site at <http://www.nillumbik.vic.gov.au>

SCHEDULE 1 FUNCTIONS OF COUNCILS

The functions of Councils include the following:

1. General public services including:

- (1) Fire prevention and protection;
- (2) Local emergency and safety services;
- (3) Animal control, protection and conservation;
- (4) Animal impounding;
- (5) Plant control;
- (6) Tip establishment and operation;
- (7) Litter control;
- (8) Collection and disposal of refuse.

2. Health, education, welfare and other community services including:

- (1) Services for children and families;
- (2) Health inspection services;
- (3) Public conveniences;
- (4) Prevention and abatement of nuisances;
- (5) Child care and development services and youth services;
- (6) Aged, disabled and disadvantaged persons services;
- (7) Migrants services;

3. Planning and land use including

- (1) Building control;
- (2) Housing and other accommodation;

4. Property services including

- (1) Water, drainage, sewerage, gas and electricity;

- (2) Land development schemes;
- (3) Street maintenance and cleaning;

5. Recreational and cultural services including

- (1) Halls and public buildings;
- (2) Sport, recreation, leisure and arts;
- (3) Parks, gardens and reserves;
- (4) Libraries and museums;
- (5) Historic buildings and places;
- (6) Public entertainment;

6. Roads including:

- (1) Bridges;
- (2) Footpaths, bicycle paths and nature strips;
- (3) Traffic control and signs;
- (4) Lighting and drainage of roads;

7. Any other functions relating to the peace, order and good government of the municipal district including:

- (1) Parking;
- (2) Transport;
- (3) Aerodromes;
- (4) Tourism;
- (5) Information;
- (6) Encouragement of employment opportunities;
- (7) Encouragement of commerce, industry and agriculture;
- (8) Environment control, protection and conservation;
- (9) Municipal enterprises (trading or entrepreneurial);
- (10) Municipal administration.