

Information Privacy and Health Records

COUNCIL POLICY NO. 074

1. PURPOSE

Council is committed to ensuring that personal and health information received by the organisation is collected, handled and disposed of in a responsible manner and in accordance with the Information Privacy Principles incorporated within the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

In fulfilling these objectives, Council will:

- balance the public interest in the free flow of information with the public interest in protecting the privacy of personal information;
- balance the public interest in promoting open access to public sector information with the public interest in protecting its security;
- promote awareness of responsible personal information handling practices; and
- promote the responsible and transparent handling of personal information.

This policy:

- a) applies to all Gannawarra Shire Council Councillors, officers and contractors;
- b) covers all personal information held by Council; and
- c) includes information we have collected from third parties.

2. DEFINITIONS

Health information is information relating to a living or deceased person's physical, mental or psychological health.

Health Privacy Principles (HPPs) are a set of eleven principles that regulate how health information is handled. These principles underpin the Health Act.

- HPP 1 – Collection
- HPP 2 – Use and Disclosure
- HPP 3 – Data Quality
- HPP 4 – Data Security
- HPP 5 – Openness
- HPP 6 – Access and Correction
- HPP 7 – Identifiers
- HPP 8 – Anonymity
- HPP 9 – Trans-border Data Flows
- HPP 10 – Transfer/closure of the Practice of a Health Service Provider
- HPP 11 – Making information available to another Health Service Provider

Information Privacy Principles (IPPs) are a set of ten principles that regulate how personal information is handled. These principles underpin the PDPA:

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

Personal information is recorded information that could identify a living person (including work related information and images).

Sensitive information includes information about a person's racial or ethnic origin, political opinions, philosophical or religious beliefs, sexual preferences or practices, criminal record or membership of trade unions, profession, political or trade associations.

3. ABOUT GANNAWARRA SHIRE 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) Raise revenue to enable the council to perform its functions;
- e) Make and enforce local laws;
- f) Exercise, perform and discharge the duties, functions and powers of councils under this act and other acts;
- g) 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 shire.

Our contact details are:

Telephone: 03 5450 9333

Email: council@gannawarra.vic.gov.au

Post: PO Box 287, Kerang 3579

4. POLICY

What type of information does Council collect?

Forms used by Council to collect personal or health information will provide notice of the purpose of collecting the information and will refer individuals to this Policy for information concerning Council's collection, handling and disclosure practices and procedures.

Council acknowledges the ten Information Privacy Principles (IPPs) contained in the *Privacy and Data Protection Act*, and the eleven Health Privacy Principles (HPPs) contained in the *Health Records Act* as being the cornerstone of information privacy.

The following departments within Council collect and use personal and health information:

- Community Care
- Building and Planning
- Local Laws
- Library
- Risk Management
- Accounts (Debtors)
- Infrastructure
- Governance
- Children's Services
- Environmental Health
- Community Sustainability
- Rates and Property Valuations
- Arts and Culture
- Human Resources/Payroll
- GIS

Council will only collect personal or health information that is necessary for the fulfilment of one or more of its statutory functions and legitimate business activities, and will do so by lawful and fair means and not in an unreasonably intrusive way.

The following are some examples of circumstances where Council will obtain personal information:

- Details of residents receiving community services, eg child care, home care, community transport
- Planning and Building Permit applications
- Food premises and animal registrations
- Details of volunteers, visitors, committee members
- Ratepayer information
- Applications, enquiries, submissions, surveys and complaints
- Photographs taken at meetings and events
- CCTV footage
- Correspondence from the public
- Insurance claim information
- Immunisations and Maternal and Child Health information

Council may also collect sensitive information but will only so do where the person has given prior consent or as permitted by law.

The following Acts require the collection of personal information:

- *Domestic Animals Act 1994*
- *Health Records Act 2001*
- *Local Government Act 1989*
- *Planning and Environment Act 1987*
- *Valuation and Land Act 1960*

If it is reasonable and practical to do so, Council will only collect personal and health information directly from the individual. If personal or health information about an individual is collected from someone else, Council will take reasonable steps to make sure the affected individual is aware of this Policy.

Where it is lawful and practicable to do so, a person may be afforded the option of not identifying themselves when transacting with Council, however, identification is necessary when lodging a complaint with Council to prevent against malicious or non-genuine complaints.

Failure to provide personal information where required to do so may also obstruct Council in the fulfilment of its statutory functions and obligations.

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.

What does Council do with information?

Council will only use personal and health information for the purpose for which it was collected, for a related purpose that could easily be expected or where required by law (either privacy legislation or other laws).

At times, a person's consent may be sought to use or provide personal and/or health information to another organisation or for another purpose.

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a driver's licence or Medicare number). Unique identifiers created by another organisation will not be used as reference numbers or identifiers within Council.

Council does not prohibit the transfer of personal information outside of Victoria, but it does place restrictions on when it can occur. This is because the *Privacy and Data Protection Act* is a Victoria law and therefore the IPPs will not apply to organisations in a different state, territory or country.

Council will only transfer personal or health information outside Victoria in accordance with the provisions outlined in the *Privacy and Data Protection Act* and *Health Records Act*.

What disclosures might be made by Council?

Where it is reasonable and lawfully required to do so, Council will disclose collected personal information to relevant agencies.

Personal information may be disclosed by Council in various circumstances including:

- When someone requests to view a Public Register which Council is required by law to maintain eg Building Permits, Submissions, Dogs/Cats, Certificates of Registration. Owner or occupier names are only included on Gannawarra Shire Council public registers when required by law;
- Where required by other legislation eg ownership information as detailed within the *Fences Act 1958*;
- Where required by contracted service providers who undertake duties on Council's behalf eg waste removal;
- When required by Council's legal advisors, insurance claim agents and insurance providers, for the purposes of complaints or insurance claim investigation and resolution; or
- When in accordance with the public interest, for example to statutory authorities for consultative purposes eg VicRoads, Department Environment, Land, Water and Planning (DELWP), Department of Health and Human Services (DHHS). All such disclosures are made under agreements requiring information to be handled in accordance with privacy legislation.

How does Council ensure the information is accurate, up to date and secure?

Council takes reasonable steps to ensure the information it holds is accurate, complete and current.

A number of procedural, physical, software and hardware safeguards are used, together with access controls, secure methods of communication and back up and disaster recovery systems to protect information from misuse and loss, unauthorised access, modification and disclosure.

Stored information is also archived in accordance with the *Public Records Act 1973*, which determines when it is appropriate to retain or dispose of personal and health information.

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

Following the collection of personal information, the individual whose information has been collected, may contact Council for access to that information. The individual can contact the most relevant Council department directly or Council's FOI/Privacy Officer using the contact details in the 'About Gannawarra Shire Council' section on page 2.

Access will be provided except in the circumstances outlined in the *Privacy and Data Protection Act*, for example, where the information relates to legal proceedings or where the *Freedom of Information Act 1982* applies. If an individual believes that their personal information is inaccurate, incomplete or out of date, the individual may request Council to correct the information. The request will be dealt with in accordance with the *Privacy and Data Protection Act*.

How does Council Handle Privacy complaints?

If a person is dissatisfied with Council's handling of their personal and/or health information, a complaint may be made to Council's Privacy Officer. Complaints should be made in writing addressed to Gannawarra Shire Council, PO Box 287, Kerang Victoria 3579 or via email on council@gannawarra.vic.gov.au.

All complaints will be investigated and handled with discretion and confidentiality and in accordance with Council Policy No. 117 – Complaint Handling, and Council's Complaint Handling Procedure. Both documents are available from Council's website, www.gannawarra.vic.gov.au or provided upon request using the contact details in the 'About Gannawarra Shire Council' section on page 2.

If resolution is not satisfactorily achieved within Council, complaints may be re-directed to the Office of the Victorian Information Commissioner (OVIC). OVIC will try to resolve your complaint through conciliation, talking through issues and attempting to resolve your complaint in a way that is acceptable to everyone, and which upholds the objectives of the *Privacy and Data Protection Act*.

OVIC contact details are:

Post: PO Box 24274, Melbourne Victoria 3001
Email: enquiries@ovic.vic.gov.au
Telephone: 1300 006 842 (9am – 5pm, Monday to Friday)
Website: www.ovic.vic.gov.au

5. RELATED PROCEDURES/GUIDELINES

N/A

6. REFERENCES/LEGISLATION

Privacy and Data Protection Act 2014

Health Records Act 2001

Freedom of Information Act 1982

Victorian Charter of Human Rights and Responsibilities Act 2006

Local Government Act 1989

7. POLICY REVIEW

This policy will be reviewed at least every two years.

At the time it was reviewed, this policy was compliant with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

8. FURTHER INFORMATION

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at www.gannawarra.vic.gov.au

Any enquiries in relation to this policy should be directed to the Manager Governance on (03) 5450 9333.

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