

Information Privacy

Corangamite Shire

September 2023



**CORANGAMITE
SHIRE**

Council Policy



Information Privacy

Introduction

Corangamite Shire Council (**Council**) collects and holds personal and health information about individuals. This includes information about ratepayers/residents, and council employees, contractors or volunteers.

The *Privacy and Data Protection Act 2014* (Vic) (**PDP Act**) regulates how the Victorian public sector, including councils, collect and handle personal information.

Council is committed to full compliance with its obligations under the PDP Act and the *Health Records Act 2001* (Vic) (**HR Act**). In particular, Council will comply with the Information Privacy Principles (**IPPs**) and Health Record Principles (**HRPs**) contained in the PD Act and HR Act respectively.

Purpose

The *Local Government Act 2020* defines the role of a Council as:

The role of a Council is to provide good governance in its municipal district for the benefit and well-being of the municipal community.

Council believes that protection of an individual's privacy is a key part of its commitment towards accountability and integrity, and that the responsible handling of personal and health information is a key aspect of good governance.

The purpose of this Information Privacy Policy is to inform individuals about Council's obligations and privacy practices, including:

- how Council will collect, store, use and disclose the personal information of individuals;
- how individuals can access their personal information and correct inaccuracies; and
- how an individual can complain about possible breaches of the PDP Act.

Scope

This policy applies to all employees, contractors, volunteers, and councillors of Council. The Policy covers all personal information held by Council or any contractors providing services on behalf of Council.

Relationship to other laws

Section 6 of the PDP Act provides that if a provision of the PDP Act relating to an IPP is inconsistent with a provision made by or under any other Act, then the other provision prevails. This means that if something is required or authorised under the *Local Government Act 2020* (Vic) (the Act), then the provisions of the PDP Act do not apply. Nothing in the PDP Act affects the operation of the *Freedom of Information Act 1982* (Vic).

Definitions

Health information is broadly defined in the HR Act to include information or an opinion about:

- the physical, mental or psychological health of an individual;
- the disability of an individual;
- an individual's expressed wishes for future provision of health services;
- a health service provided, or to be provided, to an individual,

that is also 'personal information' as defined in the HR Act.

It also includes other 'personal information' as defined in the HR Act:

- collected to provide, or in providing, a health service;
- collected in connection with the donation or intended donation by an individual of his or her body parts, organs or body substances; or
- genetic information about an individual in a form which is or could be predictive of the health of the individual or any of his or her descendants.

Health information does not include information about an individual who has been deceased for more than 30 years.

Health Service is defined in the HR Act, and includes an activity performed in relation to an individual to provide a disability service, palliative care service or aged care service.

HPPs / Health Privacy Principles are the principles set out in the HR Act that regulate the collection and handling of health information.

IPPs / Information Privacy Principles are the principles set out in the PDP Act that regulate the handling of 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, but does not include information of a kind to which the HR Act applies. This includes information Council has collected in any format including correspondence, in person, photographic, video, by telephone, and by electronic means such as via our website or on social media, including personal information Council has sourced from third parties.

Privacy Officer is the contact person at Council to receive and handle complaints about possible breaches of privacy.

Public Register means a document held by a council and open to inspection by members of the public by force of a provision made by or under an Act other than the *Freedom of Information Act 1982 (Vic)* or the *Public Records Act 1973 (Vic)*.

Sensitive Information is information or an opinion about an individual's:

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

that is also personal information

Policy Detail

Council has implemented practical measures and takes all reasonable steps to ensure that the use and disclosure of personal information and health information is consistent with privacy laws and community expectations.

Where personal information and health information has been collected and needs to be passed on to others who are engaged to provide services on the Council's behalf, or where non-Council staff are authorised by the Council to collect information, analyse it or deliver services, those involved will be required to treat the information in the same way that the Council does.

Councillors and officers are required to deal with personal information and health information in compliance with the IPPs or HPPs. Councillors and officers do not have unrestricted access to personal information held by Council, and they do not have an unrestricted right to use and disclose such information.

In particular, personal information held by Council must not be used for a councillor or officer's own personal or business purposes, outside of his or her functions as a councillor or officer. If councillors or officers do use personal information in breach of the IPPs, they may be individually liable and their actions may mean that Council is also liable.

Relevant Legislation and Other Material

The primary legislative obligations applying to the Council's treatment of personal information and health information are contained in the Victorian Government's PDP Act and the HR Act. Other relevant legislation, guidelines and sources are listed below:

- Victorian Charter of Human Rights and Responsibilities 2006
- *Health Services Act 1998* (Vic)
- *Freedom of Information Act 1982* (Vic)
- *Public Records Act 1973* (Vic)
- *Surveillance Devices Act 1999* (Vic)
- *Occupational Health and Safety Act 2004* (Vic)

Office of the Victorian Information Commissioner website.

The Information Privacy Principles

Privacy legislation prescribes a number of IPPs that Council is required to comply with to promote and ensure the fair and responsible collection and handling of personal information and health information. The IPPs applicable to Council are as follows:

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

Council will conform with the privacy principles contained in the PDP Act, in the following ways:

1. Collection

Council will only collect personal information or health information that is necessary for the performance of its functions. For example, Council may collect personal information in the form of fleet trip data (such as vehicle behaviour and geographic location) to enable Council, among other things, to ensure it is complying with its obligations under occupational health and safety legislation.

In some instances Council is required by law to collect personal information or health information. Council will only collect sensitive information where the individual has consented or as permitted under a relevant Act.

The information provided may be used for purposes including but not limited to the following:

- To engage or manage employees (including prospective employees), volunteers, or contractors.
- To address issues arising in respect of departing or former employees, volunteers or contractors.
- To make contact where it is necessary in order to provide services requested.
- To make contact where it is necessary to resolve issues relating to our services or functions.
- To make contact prior to a meeting to confirm details.
- To provide material concerning Council initiatives and programs when information is supplied for this purpose.
- To facilitate the collection of Council fees and charges.
- To enable payment for Council-provided goods and services.
- To enable Council to undertake its law enforcement functions.
- To aid community safety.

2. Use and Disclosure

Council will not use or disclose personal information or health information either externally or internally except for the purpose it was collected, unless it is for a related purpose and a person would reasonably expect this to occur such as, but not limited to:

- To Council's contracted service providers who manage the services provided by Council, including waste collection.
- To individuals for the purpose of serving a notice to fence as required by the Fences Act.
- To Council's professional advisers, including auditors and lawyers.

- To an immediate family member of the individual for emergency reasons.
- Where appropriate under another Act, including the *Freedom of Information Act 1982* (Cth).
- To police, fire or state emergency departments for emergency or law enforcement purposes.
- Where an individual's consent has been given.
- Where Council is required to do so by law, for example, where Council is required to share information to provide a safe workplace in accordance with occupational health and safety.

Access to information will always be on a 'need to know' basis.

3. Data Quality

Council will take reasonable steps to make sure that the personal information or health information it collects, uses or discloses, is accurate, complete and up-to-date. For example, where practical, Council will obtain information directly from an individual (rather than through secondary data sources) or seek verification from an individual, in order to avoid any deficiencies or inaccuracies in second-hand information.

Individuals can amend any personal information they have supplied to Council. Details on how to do this are explained under Information Privacy Principle 6.

4. Data Security

Council will endeavor to maintain a secure system for storing personal information or health information, for example, by carrying out regular assessments of data security risks and ensuring electronic equipment (such as computers and portable devices) on which such information is stored are password secured or encrypted.

Council will also maintain operational policies and procedures to protect personal information or health information from misuse and loss and from unauthorised modification or disclosure. Council will dispose of personal information and health information where it is no longer necessary to fulfill the purposes for which the information was collected or as required by law.

Council will take all reasonable steps to destroy or permanently de-identify records if they are no longer required. Destruction will be in accordance with disposal schedules of the *Public Records Act 1973* (Vic).

5. Openness

Council will make its policies relating to the management of personal information or health information available and accessible through publishing this policy on our website and intranet.

Council will, on request, take reasonable steps to provide individuals with general information on the types of personal information or health information it holds and for what purposes it collects, holds, uses and discloses that information.

6. Access and Correction of Personal Information

Individuals have a right to seek access to their personal information and health information and make corrections. Access and correction will be handled under the *Freedom of Information Act (Vic)*. Some limits may apply where particular circumstances prevent Council from releasing information, for example, where access to the information would pose a serious and imminent threat to the life or health of an individual.

If personal information or health information is inaccurate, incomplete, misleading or out of date, the individual may request Council to correct this information. Council will take all reasonable steps to correct this information, for example, Council may discuss with an individual the alternative ways of noting any discrepancy regarding the accuracy of the information in a way that satisfies the needs of both parties (i.e. by deletion, amendment or addition).

7. Unique Identifiers

Council will not assign, adopt, use, disclose or require a unique identifier from a person unless it is necessary to conduct normal business operations or the Council is required to do so by law. For example, Council may require the disclosure of a unique identifier such as an individual's tax file number to enable it to comply with its obligations under tax legislation.

8. Anonymity

Where lawful and practicable, Council will give an individual the option of not identifying themselves when supplying information or entering into transactions with it. In circumstances where anonymity would impede the ability of the Council to properly provide a service, Council will ensure that individuals are aware of any limitations to services if the information required is not provided.

9. Trans-Border Data Flows

While Council staff usually handle personal information or health information, Council may outsource some of its functions to third parties. For example, Council may engage a contractor to conduct a survey to review a council service such as Family Day Care. This may require a contractor to collect, use or disclose certain personal information or health information. It is Council's intention to require contractors to comply with the PDP Act in all respects. Personal information will not be transferred outside Victoria unless the recipient of the information is subject to privacy standards that are consistent with the IPPs, with consent, or in other limited circumstances. The privacy protections must travel with the information.

10. Sensitive Information

Council will not collect sensitive information about an individual except for specific circumstances. For example, Council may collect sensitive information if the individual has consented, or if the collection is required by law.

The Health Privacy Principles

The HPPs applicable to Council are set out in full in the HR Act under the following headings:

1. Collection;
2. Use and disclosure;
3. Data quality;
4. Data security and data retention;
5. Openness;
6. Access and correction;
7. Identifiers;
8. Anonymity;
9. Transborder data flow;
10. Transfer or closure of the practice of a health service provider; and
11. Making information available to another health service provider.

If Council discontinues a health service it will give notice of the closure to past service users.

If the Council is requested to make a person's health information available to another health service provider, Council will comply with the request, basing its procedures on the requirements of the HR Act.

Role of Privacy Officer

The Privacy Officer/Health Records Officer (**Privacy Officer**) at Council handles enquiries, complaints or adjustments regarding personal or health information. Written requests for information will be responded to by the Privacy Officer unless the request is covered by the *Freedom of Information Act 1982* (Vic). Requests under this Act will be responded to in accordance with legislation and generally within 45 days.

Complaints can be directed to Council's Privacy Officer in the first instance.

Complaints

Complaints relating to Council's use of personal information or health information should be directed to:

Privacy Officer
Corangamite Shire Council
PO Box 84
Camperdown Vic 3260

Telephone: (03) 55 937 135
Facsimile: (03) 55 932 695
E-mail: shire@corangamite.vic.gov.au

or in person at 181 Manifold Street Camperdown

Complaints will be investigated and a written response will be provided as soon as possible (but Council will endeavour to respond to all complaints within 45 days). If an individual is not satisfied with the way in which Council handles information or deals with a complaint, a formal complaint can be made to the Commissioner for Privacy and Data Protection (or Victorian Health Complaints Commissioner in relation to health records).

Surveillance Devices

Council will only use, install and maintain tracking devices, including GPS and camera devices, in its vehicles and plant in accordance with the *Surveillance Devices Act 1999* (Vic) and Council's relevant policies (including this policy, the Plant and Vehicle GPS Policy and the Light Vehicle Fleet Policy).

For further information in relation to the data collected by Council via tracking devices, the way in which this data may be used, and how this data can be accessed, please refer to Council's Vehicle GPS Policy.

Review Date

This policy will be reviewed as required by legislative amendments, or no later than two years from the date of its adoption

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

The *Gender Equality Act 2020* requires Council to undertake Gender Impact Assessments when developing or reviewing any policy, program or service which has a direct and significant impact on the public. A Gender Impact Assessment has been undertaken and it is considered that the policy meets the needs of people of different genders, addresses gender inequality, and promotes gender equality.