



Information Privacy Policy

BS – Compliance – 06

BALLARAT CITY COUNCIL
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1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

Policy Name	<i>Information Privacy Policy</i>
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DOCUMENT HISTORY

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Approved			
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Approved	6.00	29/01/2018	Executive Leadership Team

2 POLICY STATEMENT

2.1 INTENT

The City of Ballarat (Council) views the protection of an individual's privacy as an integral part of its commitment towards accountability and integrity in all its activities and programs. This policy outlines Council's commitment to protecting an individual's right to privacy and the management of personal information as required by the *Privacy and Data Protection Act 2014* (The Act) and the *Health Records Act 2001*.

2.2 STATEMENT

Council is committed to the protection of your rights to privacy. We collect, use and disclose personal information in accordance with the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001* and other applicable legislation.

This policy covers all personal information held by the City of Ballarat and includes information it has collected:

- about you through any of Council's public access interfaces;
- from you, as well as information about you collected from third parties; and
- about you regardless of format. This includes information collected on forms, in person, in correspondence, over the telephone or via our various web sites.

2.3 OBJECTIVES

The object of this policy is to ensure that when personal information is collected it is stored appropriately, and that an individual's privacy is maintained to the standard as required by the *Privacy and Data Protection Act 2014* (The Act) and the *Health Records Act 2001*.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be initially directed to Business Services – Safety, Risk and Compliance Services Division.

4 APPLICABILITY

This Policy applies to all employees (whether full-time, part-time or casual), Councillors, contractors and volunteers engaged by the City of Ballarat.

5 DEFINITIONS

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 *Health Records Act 2001* applies.

While the definition of personal information is broad, the Act excludes certain types of information from the definition. The most significant exceptions relate to health information such as the physical, mental or psychological health of an individual) and personal information that is contained in a document that is a generally available publication

Information Privacy Principles (IPPs) is a set of principles that regulates the handling of personal information.

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.

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.

Public Registers are documents that Councils are required to make publicly available pursuant to State Government legislation. These registers:

- are open to inspection by members of the public
- contain information required or permitted by legislation
- may contain personal information.

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

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

6 PROCEDURE AND GUIDANCE NOTES

It is the policy of the City of Ballarat that personal information is managed in accordance with the 10 Information Privacy Principles (IPPs) as stipulated in Schedule 1 of the Act.

IPP 1- Collection of Personal Information

Council will only collect personal information that is necessary for the functions or activities of Council. If Council is required to collect personal information it will only be collected by lawful and fair means and not in an unreasonably intrusive way.

If it is reasonable and practicable to do so, Council will collect personal information directly from an individual, however there are situations where Council may need to collect an individual's information from someone else. When doing so, Council will take reasonable steps to inform the individual of the matters set out in the Act, including the purpose/s for which the information is collected.

IPP 2 – Use and Disclosure

The personal information collected by Council will not be used or disclosed for any purpose other than what it was originally intended for unless required to do so by legislation, or where there is a reasonable assumption that the original information will be used for a related secondary purpose.

In other circumstances, Council will contact the individual to obtain consent.

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 have agreed to be bound by the provisions of the *Privacy and Data Protection Act 2014 (Vic)*. Information provided to these contractors is limited to the information required by them to provide services to you on behalf of Council.

Personal information in applications for employment with Council will be supplied to agencies such as Victoria Police, as part of a background check. Such checks will only be carried out with the individuals written authorisation and the results will not be disclosed to third parties unless authorised by law.

Personal information provided by individuals as part of a public submission to a Council or committee meeting may be included with the published agenda papers and minutes of the meeting. The published agenda papers and minutes are displayed online and available in hardcopy format for an indefinite period.

Personal information may also be contained in Council's Public Registers. Under the *Local Government Act 1989*, any person is entitled to inspect Council's Public Registers, or make a copy of them, upon payment of the relevant fee.

Council will ensure that individual's personal information is not disclosed to other institutions and authorities outside Council except if required or authorised by law or where Council have the individual's consent.

IPP 3 – Data Quality

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

IPP 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.

Any personal information that an individual provides 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*.

IPP 5 – Openness

On request, Council must 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

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

These documents are available upon request by contacting a member of the Customer Service Team on 5320 5500 or via e-mail at ballcity@ballarat.vic.gov.au. These documents may also be found on the City of Ballarat Website.

IPP 6 - Access and Correction

Requests for access to and correction of documents containing personal information are generally managed under the *Freedom of Information Act 1982* (the Act).

However, some requests for personal information may be dealt with informally and in accordance with the provisions of the Act.

Requests under the *Freedom of Information Act 1982* must be made in writing stating as clearly and precisely as possible what information is required, and addressed to:

Safety, Risk and Compliance Services
City of Ballarat
PO Box 655
BALLARAT VIC 3353
Email: ballcity@ballarat.vic.gov.au

Please contact a member of Council's Compliance Team on 5320 5500 to discuss your requirements.

IPP 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.

IPP 8 – Anonymity

Council will, 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 an individual chooses not to supply relevant personal information so that it can perform its functions.

IPP 9 - Trans-border Data Flows

Council may transfer personal information about individuals to an individual or organisation outside Victoria only in the following instances:

- 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
- the individual consents to the transfer; or
- the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of precontractual measures taken in response to the individual's request; or

IPP 10 - Sensitive Information

Subject to exclusions contained within the Act, Council will not collect sensitive information about an individual unless:

- the individual has consented; or
- the collection is required under law; or
- 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
- the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

HPP 10 – Transfer or closure of the practice of a health service provider

This principle applies if the practice or business of a health service provider (the provider) is to be-

- sold or otherwise transferred and the provider will not be providing health services in the new practice or business; or
- closed down.

If the above is to occur, Council will publish that the practice or business has been, or is about to be, sold, transferred or closed down, as the case may be. Council will also publish the manner in which it proposes to deal with the health information held by the practice or business about individuals who have received health services from the provider, including whether the provider proposes to retain the information or make it available for transfer to those individuals or their health service providers.

No earlier than 21 days after Council publishes the above information, Council must elect to retain or transfer information to either the health services provider, if any, who takes over the practice or business, or the individual or health service provider nominated by the individual.

Despite any other provisions of the Health Privacy Principles, a person who transfers health information in accordance with this principle does not, by doing so, contravene the Health Privacy Principles.

HPP 11 – Making information available to another health service provider

If an individual:

- a) requests a health service provider to make health information relating to the individual held by the provider available to another health service provider; or
- b) authorises another health service provider to request a health service provider to make health information relating to the individual held by that provider available to the requesting health service provider.

A health service provider to whom the request is made and who holds the information about the individual must, on payment of a fee not exceeding the prescribed maximum fee and subject to the regulations, provide a copy or written summary of that health information to that other health service provider.

Council must comply with the requirements of this this Principle as soon as practicable.

7 COMPLIANCE RESPONSIBILITIES

CEO

Responsible for providing sufficient resources to implement the Policy.

Manager/Coordinator

The Executive Manager Safety, Risk and Compliance Services and the Coordinator Risk & Compliance act as Council's Privacy and Data Protection Officers. The Executive Manager Safety, Risk and Compliance Services has the ultimate accountability and responsibility for Council's obligations under the Privacy and Data Protection Act 2014 (Vic).

The Executive Manager Safety, Risk and Compliance Services will review and make any necessary amendments to the policy at their discretion or otherwise in accordance with any changes in the legislation.

The Executive Manager Safety, Risk and Compliance Services will report periodically to the Audit Committee on Council's performance pursuant to this policy.

The Executive Manager Safety, Risk and Compliance Services or the Coordinator Risk and Compliance can take complaints and requests for access and correction.

8 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy is compatible with the relevant human rights identified in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

9 REFERENCES AND RELATED POLICIES

Privacy and Data Protection Act 2014

Freedom of Information Act 1982

Health Records Act 2001

Victorian Charter of Human Rights and Responsibilities Act 2006

Local Government Act 1989

10 ENQUIRIES OR COMPLAINTS CONCERNING INFORMATION PRIVACY

The Privacy Officer will manage enquiries, complaints and requests for amendments to Personal Information. Written requests for information will be responded to within 10 working days of receipt, unless the request is covered by the Freedom of Information Act 1982. Complaints will be directed to Council's Privacy Officer in the first instance:

Safety, Risk and Compliance Services

City of Ballarat

PO Box 655

BALLARAT VIC 3353

Telephone (03) 5320 5500

E-mail: ballcity@ballarat.vic.gov.au