

## PRIVACY POLICY

<b>Approval Level:</b>	EMT
<b>Policy Type:</b>	Organisation
<b>Approval Date:</b>	14 September 2021
<b>Review cycle:</b>	Bi-annually
<b>Review Date:</b>	14 September 2023
<b>Responsible Officer:</b>	Manager Governance
<b>Owner:</b>	Governance
<b>Responsible Director:</b>	Corporate Performance
<b>Relevant Legislation/Authority:</b>	<i>Child Wellbeing and Safety Act 2005 (Vic)</i> <i>Family Violence Protection Act 2008 (Vic)</i> <i>Health Records Act 2001 (Vic)</i> <i>Health Services Act 1988 (Vic)</i> <i>Human Rights and Responsibilities Act 2006 (Vic)</i> <i>Privacy Act 1988 (Cth)</i> <i>Privacy and Data Protection Act 2014 (Vic)</i> <i>Victorian Public Records Act 1973</i>
<b>DOCSETID:</b>	4625066

### 1. PURPOSE

The purpose of this policy is to set out the City's commitment to protecting an individual's right to privacy and the management of personal information and health information as required by the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)*.

### 2. BACKGROUND

2.1 The City collects a vast amount of personal and health information about individuals in its daily functions. From information about ratepayers and pet owners, to details of complaints made to the City, records of maternal and child health consultations, information about employees, public registers and records of consultation with our community.

2.2 Examples of types of information the City collects includes, but is not limited to:

- a) Personal information including:
  - name
  - address
  - telephone number
  - date of birth

- b) Health information including:
  - record of injury or disability
  - immunisation records
  - maternal and child health records
  - Workcover records
  - fitness records
- c) Sensitive information including:
  - criminal record checks
  - race or ethnic origin information
  - religion
  - sexual orientation
  - memberships of professional trade association or trade unions.

2.3 The City is required to comply with Part 3 of the PDP Act – Information Privacy, which provides for the responsible handling of personal information by Victorian public sector organisations.

2.4 Where the City collects, holds, uses or discloses personal information it must comply with the 10 Information Privacy Principles. The IPPs set out the minimum standards for how the City should handle personal information from the time it is first collected until it is disposed of when no longer required.

2.5 Similarly, under the HR Act the City is obliged to collect and handle personal health information in accordance with the 11 Health Privacy Principles.

### 3. SCOPE

3.1 All workplace participants are required to comply with this policy.

3.2 This policy applies to all personal and health information which is collected, used, disclosed or held by any area of the City regardless of format and includes information collected:

- a) about an individual through any of the City's public access interfaces;
- b) from an individual, as well as information about an individual collected from third parties; and
- c) about the individual regardless of format and includes, but is not limited to, information collected:
  - via forms
  - in person
  - in correspondence
  - over the phone
  - via Closed Circuit Television (CCTV)
  - in photographs and video
  - via the City's various websites

### 4. DEFINITIONS

**City** means the Greater Bendigo City Council City, being a body corporate constituted as a municipal Council under the *Local Government Act 2020* (Vic).

**Collection notice** means a notice provided at the time of collection of personal or health information that outlines the information handling practice of the City for that specific information and are a requirement of IPP 1.3 / HPP 3.

**Consent** under s 3 of the PDP Act means express or implied consent<sup>1</sup>.

**Consent form** means a form used for the purpose of seeking an individual's agreement to an information handling practice.

**Delicate information** means information of a private or personal nature or information that the individual it is about would likely regard as requiring a higher degree of protection and is not sensitive information for example an individual's financial information.

**FOI Act** means *Freedom of Information Act 1982* (Vic).

**Health information** as defined by the HR Act means:

- (a) information or an opinion about:
  - (i) the physical, mental or psychological health (at any time) of an individual; or
  - (ii) a disability (at any time) of an individual; or
  - (iii) an individual's expressed wishes about the future provision of health services to him or her; or
  - (iv) a health service provided, or to be provided, to an individual that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service; or
- (c) other personal information 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
- (d) other personal information 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,

but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of the HR Act generally or for the purposes of specified provisions of the HR Act.

**HPP** means the Health Privacy Principles listed in Schedule 1 of the HR Act.

**HR Act** means the *Health Records Act 2001* (Vic).

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<sup>1</sup> Assessing whether the necessary consent has been given will depend on the circumstances of each case. The five elements of consent are that the individual has the capacity to consent and that the consent is voluntary, informed, specific and current. Consent may be given on behalf of an individual where the individual lacks capacity to consent in accordance with s 28 of the PDP Act.

**IPP** means Information Privacy Principles listed in Schedule 1 of the PDP Act.

**PDP Act** means *Privacy and Data Protection Act 2014 (Vic)*.

**Personal information** as defined by the PDP Act, 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.

**Professional standards** means the standards published under section 6V(1) of the FOI Act.

**Sensitive information** as defined by the PDP Act, means information or an opinion about an individual's –

- racial 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,
- that is also personal information.

**Unique identifier** means an identifier (usually a number) assigned by an organisation to an individual uniquely to identify that individual for the purposes of the operations of the organisation but does not include an identifier that consists only of the individual's name.

**Workplace participant means** all employees, contractors, volunteers, consultants and any individuals or groups engaging with the community for or on behalf of the City.

## 5. POLICY

### 5.1 Principle 1 – Collection (IPP 1 / HPP 1)

- a) The City will only collect personal or health information necessary for its functions or activities, by lawful and fair means and not in an unreasonably obtrusive way.
- b) If it is reasonable and practicable to do so, personal or health information will be collected directly from an individual, however there are situations that may arise where the City may need to collect an individual's information from someone else.
- c) The City collects personal and health information from individuals for varied functions and activities. The City will take reasonable steps to provide an individual notice when their personal or health information is being collected including to ensure that the individual is aware of:
  - how the individual can gain access to the information;
  - the purpose for which the information is being collected;
  - to whom the City 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.
- d) The City will consider the circumstances in which personal or health information is being provided by an individual and where appropriate provide, at the point of collection, a collection notice in an appropriate form similar to that set out in Attachment A.
- e) Collection notices will be tailored to the situation in which personal or health information is being collected. Workplace participants are encouraged to seek advice and resources from the Governance Unit in preparing suitable collection notices.

## 5.2 Principle 2 – Use and disclosure (IPP 2 / HPP 2)

- a) The City will only use and disclose personal or health information about an individual:
- for the primary purpose for which the information was collected;
  - for a directly related and reasonably expected secondary purpose<sup>2</sup>;
  - where the individual consents;
  - where required by law; or
  - for other prescribed exemptions<sup>3</sup>.
- b) Prior to using or disclosing information for a purpose other than the primary purpose for which the information is collected workplace participants are encouraged to consult with the Governance Unit.
- c) Internal information sharing within the same organisation or legal entity is considered use of information. Workplace participants will only access and share personal and health information of individuals held by the City to the extent necessary to carry out the functions, duties, powers and activities of their role.
- d) Wherever possible, the City will contractually bind external contractors and consultants engaged by the City to comply with the IPPs and HPPs to the extent relevant to the service provided.

## 5.3 Principle 3 – Accurate, complete and up-to-date (IPP 3 / HPP 3)

The City will take reasonable and practicable steps to ensure that personal or health information is accurate, complete and up-to-date through-out the information lifecycle including at the time the information is collected, when it is used and when it is disclosed.

## 5.4 Principle 4 – Security (IPP 4 / HPP 4)

<sup>2</sup> The secondary purpose for which the information is used or disclosed must be connected to or associated with the primary purpose. It must **relate** to the primary purpose for which it was collected. If sensitive information is involved, the secondary purpose has to be directly related to the primary purpose. VCAT has said the link between the primary and secondary purposes must be 'clear, undeniable and inextricable' Ng v Department of Education [2005] VCAT 1054 (6 June 2005) [94]. For example, the City may collect information from ratepayers in relation to owners' properties. The primary purpose of collection may be to make decisions about amenities, value, uses and upkeep of those properties. However, disclosure of this information to a relevant authority for the secondary purpose of safety against bushfire, flood or extreme weather would be a related and reasonably expected secondary purpose.

<sup>3</sup> Prescribed exemptions include but are not limited to:

- necessary for research or statistics in the public interest;
- necessary to lessen or prevent serious threats to health or safety;
- investigating suspected unlawful activity;
- reasonably necessary assistance for law enforcement and protection of public revenue.

- a) The City will endeavour to maintain a secure system for storing personal and health information through the implementation of information management systems and operational policies and procedures to protect personal information from misuse, loss and from unauthorised modification or disclosure.
- b) The City will dispose of, or de-identify, personal or health information where it is no longer necessary to fulfil the purposes for which the information was collected or as required by law.

#### **5.5 Principle 5 – Openness (IPP 5 / HPP 5)**

- a) A copy of this policy will be available on the City's website.
- b) The City will use a layered approach to informing individuals of how personal and health information is managed through the use of collection notices and consent forms and by directing individuals to this privacy policy.

#### **5.6 Principle 6 – Access and correction (IPP 6 / HPP 6)**

- a) Individuals have a right to access and correct their personal and health information unless an exception applies.
- b) The City will respond to all requests for access to personal or health information held by the City, in accordance with the FOI Act and the professional standards which provide that, in the first instance, the City must consider whether the request can be addressed outside of the FOI Act.
- c) A request for access to an individual's own personal or health information, should be processed by the relevant work unit. Where the request cannot be responded to outside of the FOI Act the individual will be directed to the FOI Officer by the relevant work unit.
- d) Under the FOI Act, a person is also entitled to seek correction or amendment of a document containing their personal affairs information, where they believe the information is inaccurate, incomplete, out of date, or would give a misleading impression.
- e) Requests for amendment of an individual's personal or health information should be made by contacting the FOI Officer at [foi@Bendigo.vic.gov.au](mailto:foi@Bendigo.vic.gov.au).

#### **5.7 Principle 7 – Unique identifiers (IPP 7 / HPP 7)**

The City will only assign identifiers to records if it is necessary to enable the City to carry out a function efficiently.

#### **5.8 Principle 8 – Anonymity (IPP 8 / HPP 8)**

- a) If it is lawful and practicable to do so, the City will provide individuals with the option of remaining anonymous in their interactions with the City.
- b) In determining whether providing an anonymous option is appropriate, the City will balance what can be done within existing legal and technological constraints, and what should be done to promote and protect privacy and other fundamental rights and public interests.

- c) Anonymity may limit the City's ability to process a complaint or other matter, the City reserves the right to take no further action on the matter if an individual chooses to remain anonymous and the information is necessary for the City to perform its functions.

#### **5.9 Principle 9 – Transborder Data Flows (IPP 9 / HPP 9)**

- a) The City will only transfer personal or health information outside of Victoria if:
- the disclosure is authorised by law;
  - the individual has provided consent; or
  - the recipient receiving the information is subject to a law binding scheme or contract similar to the principles of the PDP Act.
- b) Principle 9 does not prohibit the transfer of personal information outside of Victoria, but it does place restrictions on when it can occur. Prior to transferring personal or health information to an organisation outside of Victoria guidance should be sought from the Governance Unit.

#### **5.10 Information Privacy Principle 10 – Sensitive information (IPP 10)**

- a) Sensitive information is a subset of personal information and is subject to higher protections under the IPPs. The City will only collect sensitive information when:
- the individual gives consent;
  - required or authorised by law; or
  - other prescribed exemptions apply.
- b) Workplace participants are encouraged to seek advice from the Governance Unit prior to collecting, using or disclosing sensitive or delicate information.

#### **5.11 Health Privacy Principle 11 – Making information available to another health service provider (HPP 11)**

- a) Upon request from an individual, the City will make information about that individual available to another health service provider.
- b) The City may require the individual to put the request in writing and provide proof of identity.

#### **5.12 Complaints, concerns or enquiries concerning privacy**

- a) Complaints or enquiries concerning privacy from individuals should be directed to the City's Privacy Officers.
- b) Any workplace participant that suspects a privacy breach must report their concerns to their direct supervisor without delay. Upon confirming that a breach has occurred, the direct supervisor must notify the relevant manager and the City's Privacy Officers.
- c) Complaints may also be made directly to the Victorian privacy regulators:
- For health information complaints – The Health Complaints Commissioner  
Website: <https://hcc.vic.gov.au/>  
Phone: 1300 582 113



- For all other privacy complaints – The Office of the Victorian Information Commissioner  
Website: <https://ovic.vic.gov.au/>  
Phone: 1300 006 842

## **6. ROLES AND RESPONSIBILITIES**

### **6.1 All workplace participants**

Are responsible for:

- (a) managing personal, health and sensitive information in accordance with this policy;
- (b) seeking guidance and advice from the Governance Unit to ensure that they understand the requirements of this policy and the City's obligations in specific situations;
- (c) reporting any concerns regarding a privacy breach or the management of personal or health information to their direct supervisor or the Privacy Officers;

### **6.2 People managers**

People managers are responsible for:

- (a) promoting the management of information in accordance with this policy;
- (b) reporting any concerns regarding a privacy breach or the management of personal or health information to their manager and the Privacy Officers.

### **6.3 Privacy Officers**

The City's Legal Services Team operate as Privacy Officers for the City. Internal and external privacy complaints and enquiries should be directed to [legal@bendigo.vic.gov.au](mailto:legal@bendigo.vic.gov.au) for consideration.

The City's Privacy Officers are responsible for:

- (a) supporting the management of information in accordance with this policy across the organisation;
- (b) providing advice and guidance to workplace participants, including on the:
  - collection, use and disclosure of information;
  - preparation of collection notices, consent forms and appropriate methods of informing individuals how personal and health information is managed by the City; and
  - implementation of this policy in relation to specific situations, functions and duties of the City.
- (c) investigating and responding to privacy complaints and concerns as required;
- (d) responding to FOI requests and requests to correct information; and



- (e) education and support across the City, as required, in relation to privacy and access to information.

## 7. RELATED DOCUMENTS

Employees are encouraged to access the related internal documents which are available on the intranet and/or external resources which are available as per the below.

These include:

- Resources on Privacy and Freedom of Information available on the City's website and (for City employees) the Legal Services [Privacy SharePoint Page](#)
- Health Complaints Commissioner website: <https://hcc.vic.gov.au/>
- Office of the Victorian Information Commissioner website: <https://ovic.vic.gov.au/>

Further information or advice on this policy should be directed to Governance.

## 8. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

## 9. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a Business Unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation with the staff Consultative Committee and with the approval of EMT or where required, resolution of Council.

## 10. DOCUMENT HISTORY

Date Approved	Responsible Officer	Unit	Change Type	Version	Next Review Date
September 2021	Ryan Millard	Governance	Develop	1	August 2023

## ATTACHMENT A - COLLECTION NOTICES

### When should a collection notice be provided?

A collection notice should be provided to an individual each time the City collects personal information from them. A collection notice will usually be required for those points or interactions where the City obtains information from the individuals that we deal with. Examples include customers, service-users, ratepayers, employees, or contractors.

### What format should a collection notice be in?

Notice can be provided in different formats – this may be on the form that is used to collect the information (paper or online); on the City's website; in a telephone script; or in an acknowledgement letter or email responding to the individual.

Where appropriate, the City may decide to 'layer' its collection notice. This may involve, for example, providing a concise summary of key points on a form, sign, or poster, and then referring, or providing a link to the full collection notice and our Privacy Policy.

### Collection notice example

*The City of Greater Bendigo is committed to protecting your privacy. The personal information requested on this [insert name of document e.g. form, survey etc] is being collected by the City for the purpose of [insert purpose] or any other directly related purpose. The personal information [will/may] also be disclosed to [insert names of any other entities the City will be disclosing the personal information to] for the purpose of [insert how those entities will be using the personal information]. If the personal information is not collected, [insert details of what will happen – can they still participate in the process, can they be anonymous etc]. You may request access and/or correction to information held by the City by contacting the Privacy Officer on 5434 6000. You can access our Privacy Policy at [www.bendigo.vic.gov.au](http://www.bendigo.vic.gov.au)*

### Collection script example

*The City of Greater Bendigo collects this information in order to:*

- [include the specific purpose for collecting the personal information]
- [include any other specific purpose]
- [etc]

*We [may/will] share this information with:*

- [another organisation/individual], in order to [include the specific purpose the personal information is disclosed].

*[You are required to provide this information as a result of [include the legal basis for the compulsory collection if applicable]].*

*If you choose not to provide [type of personal information], we will [include the consequence of not providing this type of personal information].*

*If you have any questions about how your personal information will be handled or would like to gain access to your personal information, you can contact the City's Privacy Officer on 5434600.*