

# POLICY

## Privacy Policy



### 1 Purpose

The purpose of this policy is for Council to meet the Information Privacy Principles set out in the *Privacy and Data Protection Act 2014*, in relation to the management and handling of personal information.

### 2 Scope

This Policy applies to Council employees, Councillors, volunteers, Committee members and contractors of Hindmarsh Shire Council.

This Policy covers all personal information of person collected or received by Hindmarsh Shire Council, regardless of format, including information on forms; information collected in person; via telephone; any correspondence; or information collected from Council websites.

### 3 Definitions

**Council** means Hindmarsh Shire Council

**IPPs** means Information Privacy Principles

**PDPA** means Privacy and Data Protection Act

**Personal information** means information or an opinion about an individual whose identity is obvious or can reasonably be established, other than certain health or generally available information.

### 4 Policy statement

Council seeks to responsibly manage the personal information we handle and are committed to ensuring full compliance with the IPPs outlined in the Privacy and Data Protection Act. We believe that the responsible handling of personal information is a key aspect of democratic governance and are strongly committed to protecting an individual's right to privacy.

### 5 Information Privacy Principles

The ten Information Privacy Principles form the basis of the *Privacy and Data Protection Act 2014*. Municipal Councils must comply with the Information Privacy Principles, as set out below.

### **5.1 Collection of personal information (IPP 1)**

Council will only collect personal information that is necessary for carrying out its functions or activities, and where reasonable and practicable, collection will be from a person directly.

Council will collect information in a variety of ways, including:

- during conversations between a person and Council representatives (face to face or via phone)
- when a person accesses and interacts with Council websites, social networking sites or send messages (SMS/MMS) to Council
- when a person makes an enquiry, provide feedback or complete an application form (online or in hard copy)
- from other sources (i.e. referred from another entity or unsolicited).

Depending on the reason, personal information collected typically includes, but is not limited, to the following:

- name
- address (residential, postal and/or e-mail)
- telephone number (work, home or mobile)
- date of birth
- signature
- motor vehicle registration number
- photograph and/or video footage.

Council holds personal information in various formats, including:

- public registers administered under various Acts
- general correspondence files
- personnel files
- client files
- property files
- rate database
- valuations database
- customer service databases
- mailing lists

Council shall take reasonable steps to ensure the person supplying the personal information is aware of the purpose the information is being collected for; how to contact Council; any third parties Council may disclose personal information to; any law that requires the information to be collected; and the main consequences, if any, for the person if all or part of the information is not provided.

Where lawful and practicable, Council will offer a person the option of remaining anonymous as part of a transaction 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 where an a person chooses not to supply relevant personal information so that it can perform its functions.

## **5.2 Use and disclosure of Information (IPP 2)**

Council will take all necessary measures to prevent unauthorised access to, or disclosure of, personal information. Council will only use personal information within Council or disclose it outside of Council for the purpose for which it was collected, unless one the following apply:

- where Council has a person's consent
- for a related secondary purpose a person would reasonably expect
- or as required or permitted by the PDPA or any other legislation.

Council discloses personal information to external organisations such as contracted service providers, who perform various services for and on behalf of Council. Information provided to these contractors is limited to the information required for them to provide services to an individual on behalf of Council.

The law may authorise or require Council to disclose personal information about a person to debt collection agencies; other Government agencies; and law enforcement agencies (including a Court or the Police) in instances where Council is required to respond to a subpoena or provide information to assist with a criminal investigation.

Personal information provided by a person as part of a submission to Council or to a Committee of Council may be included with the published Agenda papers and Minutes of the meeting. The published Council Agenda papers and Minutes are available to view online at Councils website.

Personal information may also be contained in Council's Public Registers that are required or permitted by law to be made available for inspection by a member of the public.

## **5.3 Data Quality (IPP3)**

Council will take reasonable steps to ensure that the personal information it collects, uses, holds, or discloses is accurate, complete, up to date, and managed in accordance with the *Public Records Act 1973*.

A person may request that Council amend any personal information they have supplied to it. See 5.1 for how to access and correct information.

## **5.4 Data Security (IPP4)**

Council will take reasonable steps to ensure that personal information is stored safely and securely to protect it from misuse, loss, and unauthorised modification and disclosure. This applies regardless of the format in which the information is held.

Personal information that a person provides to Council which is no longer necessary for Council purposes will be disposed of in accordance with the *Public Records Act 1973*.

## 5.5 Openness (IPP5)

This policy details Council's management of personal information.

## 5.6 How to access and correct information (IPP6)

As Council is subject to the *Freedom of Information Act 1982* (Vic) (FOIA), access to, or correction of personal affairs information is managed under that legislation. For details on how to make an application under the FOIA to access personal affairs information please refer to Hindmarsh Shire Council's website at [www.hindmarsh.vic.gov.au](http://www.hindmarsh.vic.gov.au).

Under the FOIA, 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.

## 5.7 Unique Identifiers (IPP7)

Schedule 1 to the PDPA defines 'unique identifier' as:

*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 but does not include an identifier within the meaning of the Health Records Act 2001.*

Council will not assign, adopt, use, disclose, or require unique identifiers from persons except for the course of conducting normal Council business, or if required by law.

Council will only use or disclose unique identifiers assigned to a person by other organisations, if the person consents to the use and disclosure, or the conditions for use and disclosure as set out within the Act are satisfied.

## 5.8 Anonymity (IPP8)

Where lawful and practicable, Council will give a person the option of remaining anonymous as part of his or her transaction with Council.

Before a member of Council staff collects personal information they must first establish whether that particular information is required to complete their function or activity.

Anonymity may limit Council's ability to process a complaint or other matter. Therefore, if a person chooses not to supply personal information that is necessary for the Council to perform its functions, then Council reserves the right to take no further action on that matter.

## 5.9 Transferring Information Outside Victoria (IPP 9)

Council will only transfer personal information to an individual or organisation outside Victoria in the following circumstances:

- where Council has a person's consent
- if disclosure is in accordance with Privacy and Data Protection Act or other laws

### 5.10 Sensitive Information (IPP10)

Sensitive information is a subset of personal information. It is defined in the PDPA as *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 orientation or practices, criminal record.*

Council will not collect sensitive information about a person except in circumstances prescribed in the PDPA or in circumstances whereby such information is both directly pertinent and necessary to the specific, proper and legitimate functions of one or more of its activities.

## 6 How to make a complaint or enquiry concerning privacy

The PDPA gives a person the right to complain if they believe their personal information has been mishandled.

Please note:

- complaints can only be made about an alleged breach that occurred after 1 September 2002, unless it is continuing
- a complaint must relate to a breach of one or more of the ten Information Privacy Principles
- a complaint should be made within 45 days of the complainant being made aware of the breach (although it may still be considered if there are reasons a person was not able to complain within the specified timeframe)
- complaints can only be about personal information that is recorded in some form.

Complaints must:

- be in writing and accompanied by a suitable form of identification (such as a copy of a driver's licence).
- provide a brief description of the incident: for example, the date of the incident, what personal information was involved and what form it was in (if known), for example paper records, electronic database.

The complainant must be the person who is directly involved in the complaint or the person making the complaint must be authorised in writing to represent the person directly involved in the complaint.

A complaint will be acknowledged within two business days and will be investigated as soon as practicable. A complainant will be provided with a written response within 30 days of the date the complaint is received by Council.

Complaints should be submitted to:

Manager Governance and Human Services  
PO Box 250  
Nhill VIC 3418

Alternatively, a complaint can be made to the Office of the Victorian Information Commissioner (OVIC), however the OVIC may decline to hear the complaint if the person has not made a complaint to Council first.

Where a complainant is not satisfied with the decision of the Council's Information Privacy Officer they may apply to the OVIC.

Contact details for the Commissioner are:

Office of the Victorian Information Commissioner

Phone: 1300 666 444

Email: [privacy@cpdp.vic.gov.au](mailto:privacy@cpdp.vic.gov.au)

## 7 Relevant legislation

*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 2020*

*Public Transparency Policy*

## 8 Document Control

Hindmarsh Shire Council Privacy Policy		<b>Policy Category</b>	CORPORATE
<b>Version Number</b>	3.0	<b>Policy Status</b>	UNDER REVIEW
<b>Approved/Adopted By</b>	COUNCIL	<b>Approved/Adopted on:</b>	25/11/2020
<b>Responsible Officer</b>	DCCS	<b>Review Date:</b>	3 YEARS AFTER APPROVAL
<b>Version History</b>	<b>Date</b>	<b>Version</b>	<b>Description</b>
	July 2009	1.0	Creation of Policy
	7 December 2017	2.0	Update of Policy
	30 November 2018	2.1	Review of Policy – minor formatting
	25 November 2020	2.2	Review of Policy – minor formatting changes. Inclusion of definitions and policy statement (Part 4)