

# Privacy Policy

**Date adopted:** June 2002

**Date Updated:** November 2021

**Responsible Service Area:** Risk, Information and Integrity

## Purpose

The responsible handling of personal information is a key aspect of democratic governance and Maroondah is strongly committed to protecting an individual's private information as well as their right to privacy.

Accordingly, Council is committed to fully understanding, complying with and implementing its obligations under the *Privacy & Data Protection Act 2014* (the Act) and the *Health Records Act 2001*.

In particular, Council will fully comply with the Information Privacy Principles (IPPs) prescribed within the Privacy and Data Protection Act 2014 and the Health Privacy Principles (HPPs) as prescribed by the Health Records Act 2001.

## Relationship to the Maroondah 2040 Community Vision

*Community Outcome:* A well Governed and Empowered Community

*Key Directions:* Maroondah is an empowered community that is actively engaged in Council decision making through processes that consider the needs and aspirations of all ages and popular groups. Council provides strong and responsive leadership, ensures transparency, while working with the community to advocate for the 'champion' local needs.

## Definitions

**Data Breach** - information that is held by Council and is subject to misuse, loss, unauthorised access, modification or disclosure without the knowledge or authorisation of the system owner or in this case, Council.

**Health Information** - information or an opinion, whether true or not, about the physical, mental, psychological health of an individual; the disability of an individual or information about a health service provided to an individual.

**HPPs** - Health Privacy Principles listed under the Health Records Act 2001 that regulate the handling of health information.

**IPPs** - Information Privacy Principles listed under the Privacy and Data Protection Act 2014 that regulate the handling of personal information.

**Personal Information** means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Public Registers** - Documents that are open to inspection by members of the public and may also contain personal information - such is prescribed by legislation.

<b><u>Policy Title:</u></b> <i>Privacy Policy</i>		<b><u>Policy No:</u></b>	<b><u>Policy type:</u></b> <i>Operational</i>
<b><u>Policy creation date:</u></b> <i>June 2002</i>	<b><u>Current version approved:</u></b> <i>July 2019</i>	<b><u>Current version number:</u></b> <i>4</i>	<b><u>Policy review date:</u></b> <i>November 2023</i>
<b><u>Parent policy:</u></b> <i>N/A</i>	<b><u>Child policy/policies:</u></b> <i>N/A</i>	<b><u>Policy responsibility:</u></b> <i>Corporate Services</i>	<b><u>eCLIP record number:</u></b>

**Sensitive Information** - Council may also hold what is considered sensitive information. Sensitive information includes information or an opinion about an individual's:

- Racial or ethnic origin;
- Political opinions;
- Trade union membership;
- Membership of a professional trade association;
- Religious beliefs or affiliations;
- Philosophical beliefs;
- Sexual preference;
- Criminal record

## Roles and Responsibilities

All Employees are responsible for familiarising themselves with the Privacy Policy to ensure they comply with the Information Privacy Principles and the Health Privacy Principles.

The Risk and Integrity Officer is responsible for privacy matters within Maroondah Council which includes managing data breaches. The Risk and Integrity Officer will review the Policy every two (2) years, liaise with senior management to ensure compliance with the Act and provide guidance and support for all employees. All general enquiries concerning Privacy should be directed to the Risk and Integrity Officer at [privacy@maroondah.vic.gov.au](mailto:privacy@maroondah.vic.gov.au)

## Privacy Concerns/complaints

If an individual is concerned or aggrieved by Council's handling of their personal information, they may refer the matter with Council's Risk and Integrity Officer. Such matters will be investigated within a reasonable time frame and a written response will be provided.

Alternatively, individuals may direct their concern to The Office of Victorian Information Commission (OVIC) or the Health Complaints Commissioner (HCC). Please note that the relevant Commissioner may recommend the initial complaint be made to Maroondah Council in the first instance prior to conducting inquiries in to the matter.

Office of the Victorian Information Commissioner (OVIC)  
PO Box 24274  
Melbourne VIC 3001  
Email: [enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)  
Website: [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au)

Health Complaints Commissioner (HCC)  
Level 26, 570 Bourke Street, Melbourne  
Phone: 1300 582 113  
Website: [www.hcc.vic.gov.au](http://www.hcc.vic.gov.au)

## Policy Breaches

Employees who are in breach of this policy may be subject to disciplinary action, performance management and review. Serious breaches may result in termination of employment, in accordance with the Discipline policy HR 06-02.

## Data Breaches

All data breaches must be reported to the Risk and Integrity Officer as soon as practicable once a breach is detected via [privacy@maroondah.vic.gov.au](mailto:privacy@maroondah.vic.gov.au).

When a data breach is reported to the Risk and Integrity Officer, the Risk and Integrity Officer will conduct a risk assessment of the breach and determine probability of harm to any person(s) who's private information may have been compromised. If there is a high probability of harm, the Risk and Integrity Officer shall promptly notify:

- (a) the OVIC and or the HCC of the breach and determine an appropriate course of action, and
- (b) the Coordinator Risk Information and Integrity, the Manager Finance and Governance and the Manager Communication and Engagement.

Council will, as soon as is reasonably practicable, notify individuals who are deemed to be at a high risk of harm as a consequence of the data breach. The Risk and Integrity Officer shall maintain a data breach register which will be used to record all known breaches.

## Privacy Collection Notice

All Council forms that collect personal information are required to have a collection notice that will refer an individual to this policy for further information and where it can be located. (Council's website).

The intention of the collection notice is to inform individuals of why Council is collecting the information, how Council will handle the information, possible ramifications of non-completion of the form and access to the information.

A generic collection notice has been developed to assist all Council service areas in tailoring their notice to suit their service specific notices. The generic privacy collection notice is as follows:

*"Maroondah City Council is committed to protecting your privacy as prescribed by the Privacy and Data Protection Act 2014 and the Health Records Act 2012. The information you provide on this form is being collected by Maroondah City Council for the strict purpose of conducting Council business. Your information will not be disclosed to any external party without your consent, unless Council is required to do so by law or it is part of the Council business that is being undertaken. Failure to provide the information requested may make you ineligible to receive the service or be part of an event/function that is the subject of this form. Any access to the information, amendments that may be required or any privacy enquiries may be directed to Council's Privacy Officer and Health Records Officer on 9298 4211 or email - [privacy@maroondah.vic.gov.au](mailto:privacy@maroondah.vic.gov.au)"*

## Privacy and Data Protection

### Compliance

Maroondah City Council complies with the Victorian Government Privacy and Data Protection Act 2014 (the Act)

The main purposes of this Act are:

- To establish a regime for the responsible collection, storage, handling and disclosure of personal information;
- To provide individuals with rights of access to information about themselves which is held by the organisation; and
- To provide individuals with the right to request an organisation to correct and amend information about themselves held by the organisation, including information held by contracted service providers.

Council must comply with the ten Information Privacy Principles (IPPs) contained in the Act, listed as follows:

- Principle 1*     *Collection*
- Principle 2*     *Use and Disclosure*
- Principle 3*     *Data Quality*
- Principle 4*     *Data Security*
- Principle 5*     *Openness*
- Principle 6*     *Access and Correction*
- Principle 7*     *Unique Identifiers*
- Principle 8*     *Anonymity*
- Principle 9*     *Trans-border Data flows*
- Principle 10*    *Sensitive Information*

## **External Contractors**

While Council staff usually handle personal information, Council may outsource some of its functions to third parties (i.e. garbage collection). This may require the contractor to collect, use or disclose certain personal information.

Council requires contractors to comply with the IPPs and the provisions of the Act in all respects.

## **Public Registers**

Public registers are documents that are held by Council and:

- Are open to inspection by members of the public;
- Contain information that a person or body was required or permitted by legislation to give the Council under an Act or regulation; and
- Contain information that would be personal information if the document was not a generally available publication.

## **Information Privacy Principles (IPPs)**

### ***Principle 1 - Collection***

Council will only collect personal information that is necessary for its functions and activities. In some instances, Council is required by law to collect personal information. Council will only collect sensitive information where individuals have consented, or it is permitted under the law and specifically authorised under another Act or Regulation.

When it is reasonable and practical to do so, Maroondah will collect personal information about an individual directly from that individual. When doing so, Council will inform of the purposes for which the information is collected and used in accordance with lawful and fair means. If Council collects personal information about you from someone else, Maroondah will take reasonable steps to make you aware of these matters.

## ***Principle 2 - Use and Disclosure***

Council must not use or disclose personal information for a purpose other than:

- The primary purpose for which it was collected;
- A directly related secondary purpose the person would reasonably expect;
- For those conditions specified in the Act;
- Where the use or disclosure is specifically authorised under another Act or Regulation;
- Where consent has been obtained from the individual; or
- Where it is considered reasonable to do so (i.e. ownership details under the Fences Act 1968)

Organisations to which Maroondah Council may disclose personal information include but not limited to: the Victorian Ombudsman, OVIC (Office of Victorian Information Commissioner), debt collection agencies, VicRoads, Insurers, legal advisors, contracted service providers, printer and mailing services, State Government Agencies and law enforcement bodies and courts.

In circumstances where the health or safety of a person is at risk, Maroondah Council reserves the right to disclose Personal Information without consent if deemed reasonable.

## ***Principle 3 - Data Quality***

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

## ***Principle 4 - Data Security***

Council maintains a secure system for the storage of personal information. Technological and operational policies and procedures are in place to protect all personal information it holds from misuse, loss, unauthorised access, modification or disclosure.

Council take all reasonable steps to lawfully and responsibly destroy or permanently de-identify personal information when it is no longer needed for any purpose, subject to compliance with the Public Records Act or any other applicable Act or Regulation.

## ***Principle 5 - Openness***

Council must make publicly available its policies relation to the management of personal information. Council must, on request, provide individual with general information on types of personal information it holds and for what purposes and how it collects, holds, uses and discloses that information subject to the provisions of the Freedom of Information Act and/or any other applicable Act or Regulation.

## ***Principle 6 - Access and Correction***

Council must provide access to information held by Council about an individual on request except in specific circumstances as outlined within the Act and the Information Privacy Principals. For instance, where the information relates to legal proceedings.

If an individual believes their personal information held by Council is incorrect then a request may be made to correct the information. Such request will be handled in accordance with the provisions of the Act.

## ***Principle 7 - Unique Identifiers***

Council must not assign, adopt, use, disclosure or require unique identifiers from individuals, except for the course of conducting normal Council business, or if required by law. Council will only use or disclose unique identifiers assigned to individuals by other organisations, if the individual consents to the use and disclosure, or the conditions for use and disclosure set out within the Act are satisfied.

## *Principle 8 - Anonymity*

Council must, where it is lawful and practicable, give individuals the option of not identifying themselves when supplying information or entering into transactions with Council.

## *Principle 9 - Trans Border Data Flows*

Council may transfer personal information outside of Victoria only if that data transfer conforms to the reasons and conditions outlined within the Act.

## *Principle 10 - Sensitive Information*

Council must not collect sensitive information about an individual except for circumstances specified under the Act 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.

## Health Records

### Compliance

The Health Records Act 2001 (Vic) specifies 11 Health Privacy Principles (HPPs). In many respects, the HPPs are similar to the Information Privacy Principles prescribed by the Privacy and Data Protection Act 2014 however there are some slight differences.

Council **must** comply with the eleven HPPs contained in the Health Records Act 2001, listed as follows:

<i>Health Privacy Principle 1</i>	<i>Collection</i>
<i>Health Privacy Principle 2</i>	<i>Use and Disclosure</i>
<i>Health Privacy Principle 3</i>	<i>Data Quality</i>
<i>Health Privacy Principle 4</i>	<i>Data Security and Data Retention</i>
<i>Health Privacy Principle 5</i>	<i>Openness</i>
<i>Health Privacy Principle 6</i>	<i>Access and Correction</i>
<i>Health Privacy Principle 7</i>	<i>Identifiers</i>
<i>Health Privacy Principle 8</i>	<i>Anonymity</i>
<i>Health Privacy Principle 9</i>	<i>Trans-border Data Flows</i>
<i>Health Privacy Principle 10</i>	<i>Transfer or Closure of the Practice of a Health Service Provider</i>
<i>Health Privacy Principle 11</i>	<i>Making Information Available to Another Health Service Provider</i>

### External Contractors

Council may outsource some of its functions to third parties which may require the contractor to collect, use or disclose certain health information, for instance Aged Care Services. Council requires contractors to comply with the HPPs and the provisions of the Health Records Act in all respects.

## Definition of Terms

### *Health Information*

Under the Health Records Act, Health information means:

1. Information or an opinion about -
  - The physical, mental or psychological health of an individual; or
  - A disability of an individual; or
  - An individual's expressed wishes about the future provision of health services to him or her; or
  - A health service provided, or to be provided, to an individual that is also personal information; or
2. Other personal information collected to provide, or in providing, a health service; or
3. Other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his/her body parts, organs or body substances; or
4. Other personal information that is genetic information about an individual in a form that is or could be predictive of the health (at any time) of the individual or of any of his/her descendants.

### *Health Service*

The Health Records Act defines health service as:

1. An activity performed in relation to an individual that is intended (or claimed)
  - To assess, maintain or improve the individual's health; or
  - To diagnose the individual's illness, injury or disability; or
  - To treat the individual's illness, injury or disability or suspected illness, injury or disability
2. A disability service, palliative care service or aged care service;
3. The dispensing on prescription of a drug or medicinal preparation by a pharmacist.

### *Health Service Provider*

The Health Records Act defines health service provider as an organisation that provides a health service in Victoria.

## Health Privacy Principles

### *Principle 1 - Collection*

Council only collects health information that is necessary for the performance of a function or activity and;

- Has the individual's consent, or
- Is required or permitted by law, or
- For any other reason permitted in the act.

Council will only collect health information by lawful and fair means and not in an unreasonably intrusive way. If it is reasonable to do so, Council will only collect health information about an individual from that individual.

## ***Principle 2 - Use and Disclose***

Council only uses and discloses health information for the primary purpose for which it was collected or a directly related secondary purpose the person would reasonably expect. In any other circumstances, Council will contact the individual in order to obtain consent (unless the use or disclosure is required by law or permitted by the Act).

## ***Principle 3 - Data Quality***

Council will take reasonable steps to ensure the health information it holds is accurate, complete, up-to-date and relevant to the functions it performs.

## ***Principle 4 - Data Security and Retention***

Council maintains a secure system for the storage of health information. Technological and operational policies and procedures are in place to protect all health information it holds from misuse, loss, unauthorised access, modification or disclosure.

Council take all reasonable steps to lawfully and responsibly destroy or permanently de-identify health information when it is no longer needed for any purpose, subject to compliance with the Public Records Act or any other applicable Act or Regulation.

## ***Principle 5 - Openness***

Council must make publicly available its policies in relation to the management of personal information. Council must, on request, provide individual with general information on types of personal information it holds and for what purposes and how it collects, holds, uses and discloses that information subject to the provisions of the Freedom of Information Act and/or any other applicable Act or Regulation.

## ***Principle 6 - Access and Correction***

Individuals have a right to seek access and make corrections to health information held by Council about themselves. All requests for access and correction should be lodged in writing as a Freedom of Information request {Pursuant to Section 16 of the Health Records Act 2001 (Vic)} and addressed to:

Freedom of Information Officer  
Maroondah City Council  
PO Box 156  
Ringwood 3134  
[foi@maroondah.vic.gov.au](mailto:foi@maroondah.vic.gov.au)

## ***Principle 7 - Identifiers***

Council will only assign a unique identifier to a person's health information if the assignment is reasonable necessary to carry out Council's functions efficiently.

## ***Principle 8 - Anonymity***

Where lawful and practicable, Council will provide a person with the option of not identifying themselves when supplying information or entering into transactions with it. However, anonymity may limit or hinder Council's ability to process an application, request, complaint or service. Therefore, Council reserves the right to take no action in any matter, within reason, if the relevant personal or health information is not submitted to Council.



## ***Principle 9 - Trans-Border Data Flows***

Council will only transfer health information outside Victoria if the organisation receiving it is subject to laws substantially similar to the HPPs, has consent from the individual to whom the information pertains, or if the transfer conforms with the reasons and conditions outlined in the Act.

## ***Principle 10 - Closure of the practice of a health service provider***

If council discontinues its health services, it will give notice of the closure to current service users within the organisation.

Whether Council elects to transfer or retain health information collected as part of its health service will depend on Council's obligations under the Public Records Act 1973 (Vic).

## ***Principle 11 - Making information available to another health service provider***

When Council acts as a health service provider, Council will make health information relating to an individual available to another health service provider if requested to do so by the individual.

## **Council-owned CCTV Systems**

Maroondah Council has a significant commitment to community safety and implemented CCTV (closed-circuit television) throughout the municipality primarily for monitoring surveillance and security purposes.

The position of Council in relation to the use, privacy, storage, retention and access of CCTV is in line with the *Council-owned CCTV Systems Policy* and in conjunction with the standard operating procedures. For further information regarding the privacy responsibilities and considerations regarding CCTV, please see the relevant policy.

## **Information Sharing Schemes**

The Victorian Government is progressing three inter-related reforms that will be integral to promoting the wellbeing and safety of children and reducing family violence.

The Family Violence Information Sharing Scheme (FVIS), the Child Information Sharing Scheme (CISS) and the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM) have been developed in response to several coronial inquests and independent inquiries conducted over the past decade.

The Family Violence and Child Information Sharing Schemes came in to effect in September 2018 and are aimed at removing barriers to information sharing to allow professionals to work together, across the service system, to make more informed decisions and better respond to the needs of children, families and other people, including those experiencing family violence.

The two information sharing schemes allow prescribed organisations and services to share information in addition to existing information sharing permissions available to them.

MARAM will guide information sharing under both information sharing schemes wherever family violence is present.

Together, these reforms create a more collaborative, integrated system that will help improve safety and wellbeing outcomes for all Victorian children and families, including victims of family violence.

Maroondah City Council falls under the requirements and obligations under the schemes and the sharing of information is guided by appropriate frameworks.

If you require further information, please visit <https://www.vic.gov.au/infosharing.html>

## Supporting Documents

- Records and Information Management Policy
- Employee Code of Conduct HR06-06
- Maroondah CCTV Policy
- Body Worn Camera Policy

## Related Legislation

If the Privacy and Data Protection Act 2014 is inconsistent with a particular piece of legislation, the other legislation will take precedence.

Listed below is just a few Legislations under which Council operates:

- *Building Act 1993*
- *Building Regulations 2006*
- *Children and Youth and Families Act 2005*
- *Children Services Act 1996*
- *Fences Act 1968*
- *Freedom of Information Act 1982*
- *Health Records Act 2001*
- *Independent Broad-Based Anti-Corruption Commission Act 2011*
- *Land Act 1958*
- *Local Government (General) Regulations 2015*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Local Government Act 1989*
- *Local Government Act 2020*
  
- *Planning and Environment Act 1987*
- *Protected Disclosure Act 2012*
- *Public Records Act 1973*
- *Road Safety Act 1986*
- *Victorian Civil and Administrative Tribunal Act 1998*
- *Victorian Inspectorate Act 2011*

## Review

Review Date - November 2021

Next Review Date - June 2023