

## 6.3.2 Information Privacy Policy

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### Recommendation(s)

That Council adopt the updated Information Privacy Policy.

### Attachments

1. Updated Information Privacy Policy April 2022 [6.3.2.1 - 5 pages]

### Executive Summary

A review of Councils Information Privacy Policy 2015 has been undertaken as required under the Privacy and Data Protection Act. Amendments to the policy has been undertaken with an updated version presented before Council.

### Background

One of the requirements imposed on the Council when the Privacy and Data Protection Act was introduced was to develop and adopt an Information Privacy Policy within 12 months of the Act receiving Royal assent. This Policy was adopted in 2015 and was due for review in 2019, it is recognised that the review is overdue.

The requirements of the Privacy and Data Protection Act have not changed since its inception and still requires development of a Policy and the development of a Statement in regard to information that is available to the public. This is referred to as a Part II Statement and the statement is available on the website, which is in accordance with the requirement of the Act and does not need further updating.

The recommended updated policy is attached with some minor changes being made, these changes do not affect the intent of the policy but are intended to provide greater detail regarding the 10 Information Privacy Principles. The update policy also includes examples to provide further clarity for users.

It is also provided in the updated policy that any privacy breaches detected will be reported to the Audit and Risk Committee.

### Policy Implications

The Information Privacy Policy was originally adopted in 2015, with this proposed version to replace the previous.

### Relevance to Council Plan

#### 5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

### Climate Emergency Consideration

There are no Climate Emergency consideration as part of this report

### **Consultation/Communication**

The draft policy has been reviewed with the Team Leader Information Management who undertook minor changes and supports the amendments and improvement to the previous version.

### **Financial and Resource Implications**

There will be no financial or resource impacts with the adoption of the new policy.

### **Conclusion**

A complete review has been undertaken of Councils Information Privacy Policy which has included greater details of the legally binding principles and examples to assist users. It is respectfully submitted that Council adopt the updated Information Privacy Policy and this policy be added to Council Policy/Strategy register and published on the website.



## Information Privacy Policy

Record ID	Enter record ID				
Policy owner	Governance				
Adopted by	Council				
Initial adoption date	28/07/2015	Revised Policy adoption date	11/04/2022	Next scheduled review date	11/04/2026
Publication	External - RMC and website				
Revision/version number	Revision 1.1				

### 1 Policy alignment

To provide a clear policy in regard to the handling of personal information and Council's commitment to its obligations under the Privacy and Data Protection Act 2014 and the Health Records Act 2001.

### 2 Purpose

The responsible handling of personal information is a key aspect of democratic governance, and Council is strongly committed to protecting an individual's right to privacy.

This Information Privacy Policy explains how Cardinia Shire Council will implement the principles contained in the legislation and how they will be applied across Council's activities. The Policy explains how Council will collect, store, use and disclose personal information of individuals, how individuals can gain access to their personal information and correct inaccuracies and how an individual may complain about possible breaches of the Privacy and Data Protection Act 2014 and the Health Records Act 2001.

### 3 Scope

The Privacy and Data Protection Act 2014 is binding on all Councillors, council staff and other bodies providing services to Council through third party contracts or agreement. Contracted service providers, including subcontractors to them, are to be alerted to Council's Information Privacy Policy on the basis that compliance with the Policy, and the Act, is a requirement in any new contract and compliance is sought in all existing contracts.

The services provided to Cardinia Shire Council by third party contractors are:

- Parks & Gardens Maintenance
- Garbage & Waste Services
- Health Services
- Building Maintenance

This Policy applies to personal information held or collected by Council.

Personal information means information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, other than certain health or generally available information.

For example, Council holds personal information on its ratepayers (eg names and addresses) in order to carry out its functions (eg planning, valuation and property services). It may also request personal information in order to provide education, welfare and other community services (eg childcare services). In some instances, personal information may be contained on a public register (register of building permits, planning permits, food premises and animal registration details).

## 4 Policy description

Council must comply with the ten privacy principles contained in the Act, listed as follows:

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

### *Principle 1 - Collection*

Council will only collect personal or health 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 the individual has consented or as permitted under the Act. If it is reasonable and practicable to do so, Council will collect personal information about individuals directly from them. When doing so, it will inform the individuals of the matters set out in the Act, including the purpose(s) for which the information is collected, and will use lawful and fair means. If Council collects personal information about individual from someone else, it will take reasonable steps to make the individual aware of these matters.

### *Principle 2 - Use and Disclosure*

Council will only use personal information within Council, or disclose it outside Council, for the purpose for which it was collected or in accordance with the Act (eg where an individual has consented or where you would reasonably expect this to occur).

#### ***For example:***

- a) Council may use email addresses or mobile phone numbers to inform residents that could be significantly affected during an emergency, or unplanned events***
- b) Council would NOT utilise email addresses or mobile phone numbers to advertise an event or for other marketing purposes***

We may share relevant information when it is related to the reason the information was collected, with other work areas within Council, with external service providers and contractors (who are also bound by the same obligations) that have been engaged to provide the service or function on behalf of Council. We will use and disclose information in circumstances where required by law and to protect the health, safety or welfare of an individual or the public. For example, we may disclose personal information when reporting a matter to police.

Personal information is also held in registers that are available for public inspection at the Council office.

#### ***Examples of personal information held by Council that is accessible by the public include:***

- ***Council lease of land information (from July 2021)***
- ***Register of all registered dogs and cats***
- ***Decisions and determinations relating to planning permits***
- ***Register of Authorised officers***
- ***Summary of personal interest returns***

*Principle 3 - Data Quality*

We will take reasonable steps to ensure that all personal and health information collected, held, used and disclosed is accurate, complete, up-to-date and relevant to Council's purpose, functions and activities. Information will be verified and updated at the time of collection.

***For example, our staff will ask for personal details to verify your identity before actioning a request to update your postal address.***

*Principle 4 Data Security*

We maintain a secure system for storing personal information. Technological and operational policies and procedures are in place to protect personal information from misuse and loss and from unauthorised modification or disclosure. Council will dispose of personal information where it is no longer necessary to fulfil the purposes for which the information was collected or as required by law.

**For example, unsolicited personal information received will usually be destroyed or de-identified as soon as practicable.**

*Principle 5 - Openness*

Cardinia Shire Council shall be open in the way it handles personal information by making available clearly stated policies on its management of personal information, statements on the type of personal information collected and held in the performance of the functions of Council, and guidelines on the use and disclosure of personal information.

*Principle 6 - Access and Correction*

Individuals have the right to access their own personal information and can request that we amend or delete incorrect or misleading personal information.

Anyone can request access to documents held by Council however there are some exemptions under the Provision of the Freedom of Information Act. (FOI)

***Examples of exemptions include:***

- ***documents affecting personal privacy of other people (such as names, addresses, telephone numbers) - section 33(1)***
- ***documents relating to commercial information (putting a commercial business at an unreasonable disadvantage) - section 34(1)***
- ***information provided in confidence such as complaints – section 35(1)***
- ***documents affecting legal proceedings (legal advice or opinions) - section 32(1)***

Access will be provided when requested except in circumstances outlined in legislation or where FOI provisions apply. FOI gives a general right to individuals to access information held by Government agencies limited by exemptions.

Individuals are encouraged to contact the Council's Privacy Officer to determine whether information can be accessed before making a formal FOI request. For details on how to make an application under the FOI Act, refer to Council's website.

*Principle 7 - Unique Identifiers*

At times we may assign a code or number to someone's record to assist with identification. This can take the form of an employee number, client code, reference or invoice number. We only assign, use, disclose or require a unique identifier for the course of conducting business activities efficiently or as required by law.

***For example, we utilise the invoice number on an account instead of using someone's name when paying an account***

*Principle 8 - Anonymity*

Where lawful and practicable, Council will give you the option of not identifying yourself when supplying information or entering into transactions with it. However, individuals need to be aware that anonymity may prevent us from taking appropriate action, resolving an issue or providing a response to the individual.

*Principle 9 - Trans-border Data Flows*

When transferring information outside of Victoria, we will take reasonable steps to ensure that the recipient of the information is bound by privacy protection requirements similar to the Victorian Information Privacy Principles.

*Principle - 10 Sensitive Information*

The Privacy and Data Protection Act places special restrictions on the collection of sensitive information. This includes racial or ethnic origin, political opinions or membership of political associations, religious or philosophical beliefs, membership of professional or trade associations or trade unions, sexual preferences or practices, and criminal record.

We will only collect sensitive information when an individual has consented, collection is required or permitted by law, when necessary for research or statistical purposes as permitted under the Privacy and Data Protection Act.

## 5 Compliance

Council encourages individuals to lodge complaints about a breach, or perceived breach, of privacy as detailed in the Cardinia Complaints Policy.

Complaints can be lodged

- In person – Civic Centre 20 Siding Avenue, Officer
- Phone – 1300 787 624
- Website – [Cardinia.vic.gov.au](http://Cardinia.vic.gov.au)
- Mail – Cardinia Shire Council, PO Box 7 Pakenham
- Email – [mail@cardinia.vic.gov.au](mailto:mail@cardinia.vic.gov.au)

Alternatively, complaints can be directed to the Commissioner for Privacy & Data Protection, although the Commissioner can decline a complaint if the complainant has not complained directly to the Council.

### 5.1 Privacy breaches

A data breach occurs when personal information held by an organisation is subject to misuse or loss or to unauthorised access, modification or disclosure.

A data breach can be accidental or as a result of a malicious act from an external or internal party.

Examples of data breaches include:

- An employee takes paper records, an unencrypted USB stick or laptop out of the office and the information is lost or stolen
- An organisation mistakenly provides personal information to the wrong person
- An email containing recipients' email addresses is forwarded to unintended parties
- An organisation's database is illegally accessed by staff members or by individuals outside of the organisation

We will act quickly to investigate and understand any privacy breach incidents and take appropriate steps to manage any potential consequences for affected individuals

Any confirmed privacy breaches will be reported to the Audit and Risk Committee.

## **6 Further Information**

If you have any queries about this Privacy Policy, please contact Council on 1300 787 624 and ask for Council's Privacy Officer