

PRIVACY & DATA PROTECTION POLICY

Policy Number:	2.3.1
Approved by	Chief Executive Officer
Date Approved/Effective	17 December 2019
Date of Next Review:	1 October 2020
Related Policies:	(OVIC) Privacy by Design Policy Records Management Policy
Applicable to Unit(s):	Whole Organisation
Responsible Officer:	Manager Information Services
Statutory Reference:	<i>Privacy and Data Protection Act 2014 (Vic)</i> <i>Freedom of Information Act 1982</i> <i>Health Records Act 2001</i> <i>Electronic Transactions Act 2000 (Vic)</i> <i>Public Records Act 1973</i>

OVERVIEW

To assist Council in meeting the legislated requirements of the *Privacy and Data Protection Act 2014* and to establish policy for the responsible management of personal information held and collected by Wellington Shire Council.

THE POLICY

The Victorian *Privacy and Data Protection Act 2014* (Act) governs the way in which Council needs to responsibly collect, handle and protect personal information and ensure data security.

All Wellington Shire Council employees, Councillors, contracted service providers including subcontractors to them, consultants, volunteers, temporary and casual staff and other authorised personnel of Council are governed by the Act and are required to comply with the ten (10) Information Privacy Principles (IPPS). The IPPS set out the minimum standards for the handling of personal information in the Victorian public sector.

The purpose of this policy is to provide a general statement about how Wellington Shire Council manages personal information and to demonstrate our commitment to privacy by:

- Helping employees understand how personal information should be handled;
- Preventing the unnecessary collection or unlawful use or disclosure of personal information; and
- Promoting greater public confidence in Wellington Shire Council's handling of personal information.

Wellington Shire Council collects personal information provided by applicants, complainants, government agencies, members of the public, employees and other third parties in compliance with its functions and obligations under the *Privacy and Data Protection Act 2014* for the purpose of carrying out their statutory functions and associated activities.

Definitions:

Personal Information

Information or opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be identified. Personal information can be almost any information linked to an individual, including name, address, sex, age, financial details, marital status, education, criminal record or employment history.

Sensitive Information

Information or an opinion about an individual's racial or ethnic origin, political opinions, trade union membership, philosophical or religious beliefs, sexual preferences or criminal record.

Health Information

Information or opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual. Health Information does not include information about an individual who has been deceased for more than 30 years.

Publicly available information, information used for law enforcement purposes and personal information released to appropriate emergency services in potentially life-threatening situations are exempt from some provisions of the Act.

Information sharing and disclosure of personal information can occur in some instances, typically when established agreements or procedures are in place. Any disclosure requires proper legislative authority and must be documented accordingly.

Responsibilities:

This Policy applies to **all** Council employees, Councillors, contracted service providers including subcontractors to them, consultants, volunteers, temporary and casual staff and other authorised personnel of Wellington Shire Council.

The Coordinator Information Management is Wellington Shire Council's Information Privacy Officer. The Information Privacy Officer is responsible for the review of this policy, privacy training, the promotion of Privacy & Data Protection and to assist with related internal and external enquiries.

An e-learning training course (Record Keeping and Privacy – which incorporates Freedom of Information) is also available to new and existing staff on Wellington Shire Council's Learning & Development System (LDS).

AN OVERVIEW OF THE TEN INFORMATION PRIVACY PRINCIPLES

The *Privacy and Data Protection Act 2014* contains ten IPPs.

All Council employees, Councillors, contracted service providers including subcontractors to them, consultants, volunteers, temporary and casual staff and other authorised personnel of Wellington Shire Council, Council **must** comply with the Principles which regulate the handling of personal information of individuals.

A summary of the ten Information Privacy Principles is:

Principle 1 - Collection

Council must only collect personal information that is necessary for specific and legitimate functions and activities and only collect the information by fair, lawful and unobtrusive means. Where reasonably practicable, Council will inform individuals why their personal information is being collected, how it will be used and to whom it may be disclosed. Privacy Collection Statements will be included on forms which collect personal affairs information of individuals.

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, unless it is for a related purpose that would be reasonably expected or consent from the individual has been obtained. The law allows some uses and disclosures without consent, such as to protect safety and for law enforcement purposes.

Note: Where authorised, Council may disclose personal information to:

- Government agencies;
- Law enforcement agencies, including the courts and the Victoria Police, in instances where Council is required to respond to a subpoena or provide information to assist a police investigation;
- Other individuals or organisations *only* if Council believes that the disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare or a serious threat to public health, safety or welfare.

Principle 3 – Data Quality

Council takes reasonable steps to ensure that the personal information it collects, uses or discloses, is accurate, complete and up-to-date.

Wellington Shire Council will endeavour to maintain accurate records. When an error is identified (either internally or by an external party) Council will correct the information promptly.

Principle 4 – Data Security

Council takes reasonable steps to protect all personal information it holds from misuse, loss, unauthorised access, modification or disclosure.

If Council becomes aware that an individual's information has been inappropriately handled, it will take steps to inform the individual of the incident and will take appropriate action to ensure that such a breach does not occur again.

Principle 5 - Openness

Wellington Shire Council's Privacy & Data Protection Policy is publicly available on Council's website www.wellington.vic.gov.au

Council, on request, will take reasonable steps to provide individuals with general information on the types of personal information it holds and for what purposes and how it collects, holds, uses and discloses that information.

Principle 6 – Access and Correction

Individuals are able to inform Wellington Shire Council of changes to their name or address by completing a Name and Address Alteration form either online via Council's website or by hard copy and submitting the completed form to Council.

Wellington Shire Council will provide an individual with reasonable access to their personal information held by Council and will take reasonable steps to correct such information when

requested by that person, in order to ensure that its records are accurate.

If Council denies access or correction, Council will provide reasons in accordance with the *Freedom of Information Act 1982*.

Principle 7 – Unique Identifiers

Council will only assign, adopt, use, disclose or require unique identifiers from individuals 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 in the Act are satisfied.

Principle 8 - Anonymity

Council, **where it is lawful and practicable**, will give individuals the option of remaining anonymous when entering into transactions with Council.

Principle 9 – Transborder Data Flows

Generally, Council will not send your personal information outside Victoria. In the rare cases that this may be necessary, Council will only send this personal information if the recipient of the information is bound by a scheme that is substantially similar to the IPPs or Council has obtained your consent. In some cases, this consent may be implied.

Any other transfers of information outside Victoria will be made in accordance with the provisions of the Privacy & Data Protection Act.

Principle 10 – Sensitive Information

Sensitive information is information or an opinion about an individual's racial or ethnic origin, political opinions, trade union membership, philosophical or religious beliefs, sexual preferences or criminal record. Council will not collect sensitive information about an individual except for circumstances specified under the Act.

OTHER LEGISLATION

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

ENQUIRIES/FURTHER INFORMATION

Enquiries regarding *The Privacy and Data Protection Act 2014* or this Policy can be directed to Council's Information Privacy Officer by contacting 1300 366 244 or emailing enquiries@wellington.vic.gov.au

Wellington Shire Council's Privacy Statement is available on Council's website.

BREACHES

Privacy breaches occur when personal information is stolen, lost or mistakenly or deliberately disclosed. Council must make every attempt to ensure they follow the *Information & Data Protection Act 2014* - Information Privacy Principles to prevent breaches. If you believe Council has breached your privacy you can lodge a complaint.

COMPLAINTS ABOUT PRIVACY

If you wish to make a privacy complaint against Wellington Shire Council, you can do so:

By phoning Council's Privacy Officer on 1300 366 244

By email at enquiries@wellington.vic.gov.au

By post at PO Box 506 Sale, Vic 3850

Wellington Shire Council treats complaints seriously and will try to resolve them fairly and quickly. If you make a complaint, Council will work with you to resolve your complaint and keep you informed of its progress.

If you are not satisfied with how Wellington Shire Council deals with your *privacy* complaint, you may lodge a complaint with the Office of the Victorian Information Commissioner (OVIC) by:

By phone on 1300 006 842

By email at privacy@ovic.vic.gov.au; or

By post at PO Box 24274 Melbourne, VIC 3001

A copy of OVIC's privacy complaint form is available on their website <https://ovic.vic.gov.au>

Phone: 1300 006 842 between 9am and 5pm, Monday to Friday.

If you are not satisfied with how OVIC deals with your privacy complaint, your complaint will be referred to an external, independent conciliator, who will attempt to resolve the complaint. If conciliation is inappropriate or unsuccessful, the Information Commissioner can refer the matter to VCAT.

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

Related Documents

Type:	Details:
Guidelines	Wellington Shire Council's Freedom of Information Part 11 Statement (website); Customer Service Commitment
Strategy	Nil