

POLICY – COUNCIL - PRIVACY

Date amended:	September 2021
Date of next review:	September 2025
Adopted by:	Council
Date adopted:	16 November 2021
Responsible officer:	Manager Governance, Risk & Compliance / Privacy Officer

1 PURPOSE AND SCOPE

To state Council’s commitment to the:

- Victorian Information Privacy Principles and other obligations proscribed within the *Privacy and Data Protection Act 2014* (Vic); and
- Health Privacy Principles and other obligations proscribed within the *Health Records Act 2001* (Vic).

This Policy applies to personal, identifying, sensitive and health information collected and used by the Pyrenees Shire Council – both internal and external to the Council. Any personal information collected, regardless if it is from a member of the public or an employee or officer of the Pyrenees Shire Council, will be handled in accordance with this Policy.

Privacy law does not apply to personal information unless it is recorded. However, privacy provisions do apply to oral disclosures of personal information where that information exists, or existed, in a recorded format.

1.1. Relationship of Victorian privacy legislation to other laws

Privacy and health records law in Victoria is considered ‘subservient’ law. This means that, if a conflict exists with the requirements of any other Australian or Victorian law, privacy law obligations are secondary to that within the other law, and the other legal requirements must be followed – even at the expense of privacy compliance.

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2 POLICY STATEMENT

To facilitate the balancing of the public interest in the free flow of information with the public interest in protecting the privacy of personal information; and

To provide guidance in the responsible and transparent handling of personal information within the Pyrenees Shire Council.

3 DEFINITIONS

Council's Privacy Officer	Manager Governance, Risk & Compliance
Personal information	Information or an opinion (including information or an opinion forming part of a database or system), 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.
Health information	Information or an opinion about the physical, mental or psychological health of an individual, a disability, an individual's expressed wishes for future provision of health services or any health service provided to an individual, or other information collected to provide or in providing a health service.
Sensitive information	Information relating to an individual's racial or ethnic origin, religious beliefs, membership of groups or criminal records.
IPPs	Information Privacy Principles. There are ten IPPs contained in the schedule to the <i>Privacy and Data Protection Act 2014</i> .
NPPs	National Privacy Principles. There are ten NPPs contained in Schedule 3 of the <i>Privacy Act 1988</i> (Commonwealth).
HPPs	Health Privacy principles contained in the <i>Health Records Act 2001</i> (Vic).
Elements of consent	<ul style="list-style-type: none"> • The individual must have the capacity to consent. • Consent must be voluntary. • Consent must be informed. • Consent must be specific; and • Consent must be current.

4 REFERENCE & RELATED DOCUMENTS

- Privacy and Data Protection Act 2014 (Vic)
- Health Records Act 2001 (Vic)
- Freedom of Information Act 1982 (Vic)
- Council's Privacy Guidelines – IPP1 Collection of personal or health information
- Council's Privacy Guidelines – IPP2 Use and disclosure of personal information
- Council's Privacy complaints management procedure [under development]
- Council's Privacy Impact Assessment procedure [under development]

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5 COLLECTION NOTICE

When collecting personal or health information, Pyrenees Shire Council will take reasonable steps to advise the individual of what information is being sought, for what purpose, whether any law requires the collection of the information and the main consequences, if any, of not providing the information.

It is acknowledged that much of the information collected by Council is not voluntary and is mandated by law.

6 INFORMATION COLLECTED

Council will only collect personal and health information that is necessary for its functions and activities; and will do so in a lawful, fair, and non-intrusive manner. Typical information collected includes:

- Ratepayer information
- Planning and Building permit applications
- Food premises, animal and wastewater registrations
- Correspondence from the public; enquiries, submissions, surveys, and complaints
- Details of residents receiving home and community care
- Insurance claim information

Council will only collect sensitive information where consent has been given or as permitted / required by law.

Under normal circumstances, Council will collect personal information about an individual directly from that individual. However, if Council collects personal information about an individual from someone else, Council will take reasonable steps to ensure that individual is informed of that collection.

Individuals will have the option of remaining anonymous when supplying information or entering into transactions with Council whenever lawful and practicable. It is acknowledged, however, that many transactions with Council cannot, under law, remain anonymous.

Individuals can visit our website anonymously because the site does not collect or record personal information other than information provided.

7 USE AND DISCLOSURE

Council staff are provided with the information necessary for them to carry out their authorised functions and activities. Staff members are required to handle all personal and health information with discretion and to comply with the provisions of privacy legislation.

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Council will only use or disclose personal and health information for the purpose for which it was collected; for a reasonably expected, related purpose; another legally authorised purpose or with an individual's consent.

Information collected for the purpose of providing education, welfare and other community support services may be shared with other organisations for the purpose of providing such services.

Council does outsource some of its functions to third party contractors. Information will only be disclosed as necessary to allow them to carry out their authorised functions and activities; and all contractors will be required to comply with privacy law in all respects.

Legally proscribed information will be contained on public registers, e.g., register of building permits, food premises and animal registration details.

8 DATA QUALITY AND SECURITY

Council will take reasonable steps to ensure the information it holds is accurate, complete, and up to date. Where possible, accuracy of personal or health information will be checked before it is used.

A number of procedural, physical, software and hardware safeguards, together with access controls, secure methods of communication and back-up and disaster recovery systems are used to protect information from misuse and loss, unauthorised access, modification, and disclosure.

Generally, information is destroyed or permanently de-identified when it is no longer required. However, information held by Council is subject to the *Public Records Act 1973* and is required to be disposed of or retained under the relevant Retention & Disposal Authority.

Generally, we will not send your personal or health information outside Victoria without obtaining your consent.

9 ACCESS AND CORRECTION

Individuals have the right to seek access to their personal and health information and make corrections. Requests for access to and/or correction of documents containing personal, or health information held by Council will be handled in accordance with the *Freedom of Information Act 1982* and should be addressed to the FOI Officer, 5 Lawrence Street, Beaufort VIC 3373.

10 PRIVACY COMPLAINTS

Complaints relating to privacy are handled by Council's Privacy Officer – the Manager Governance, Risk & Compliance. Complaints will be investigated in accordance with

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Council's *Privacy Complaints* Procedure and a written response will be provided within 15 days.

Privacy complaints should be provided in writing and addressed to the Privacy Officer, 5 Lawrence Street, Beaufort VIC 3373, or via email to pyrenees@pyrenees.vic.gov.au.

If an individual is not satisfied with the way in which a complaint is managed by Council, a formal complaint can be made to the relevant Commissioner:

Commissioner for Privacy and Data Protection

Can be made via secure online web form or in writing to:

PO Box 24014

Phone: 1300 666 444

Melbourne VIC 3001

Email: privacy@cpdp.vic.gov.au

Website: www.cdpd.vic.gov.au

Health Complaints Commissioner

Can be made via secure online web form or by telephone to:

Level 26, 570 Bourke Street

Phone: 1300 582 113

Melbourne VIC 3000

Website: www.hcc.vic.gov.au

11 VERSION HISTORY

Version Number	Issue date	Description of change
1.0		Initial release
2.0		Review
3.0	October 2017	Review
4.0	September 2021	Review and put on new template

11.1 Policy Review

This Policy will be reviewed in a 4-year cycle.

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