

# SCS-031 Privacy and Data Protection

TRIM Reference:	D23/154276	Due for Review:	November 2027
Responsible Officer:	Manager Integrity and Governance		

## Purpose

This policy details Surf Coast Shire Council's (Council) commitment to meet the requirements of the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic) in regard to the management and handling of personal and health information.

The object of this policy is to ensure that Council maintains the individual's privacy to the standard required by IPP's under the *Privacy and Data Protection Act 2014* (Vic) and the HPP's under the *Health Records Act 2001* (Vic).

## Scope

This policy applies to personal and health information of people both internal and external to Council.

The policy applies to both Council as an organisation, and elected Councillors in their capacity as a person holding office. This means that the policy applies to all employees of Council, as well as individual Councillors representing their constituents.

Contracted Council Service Providers will have the same obligations under this policy.

## Definitions

**Council** - means Surf Coast Shire Council.

**Consent** - means express consent or implied consent. Implied consent includes consent that can only be inferred by the actions of the person from whom the consent is sought.

**Contracted Council Service Providers** – means all third parties that have been engaged by Council to provide a service or function on behalf of Council.

**Health information** - has the same meaning as given in the *Health Records Act 2001* (Vic) and includes information relating to an individual's physical, mental or psychological health.

**Health Privacy Principles (HPPs)** – is a set of principles contained in the *Health Records Act 2001* (Vic) that regulates the handling of health information.

**Health service** - has the same meaning as given in the *Health Records Act 2001* (Vic).

**Health service provider** - has the same meaning as given in the *Health Records Act 2001* (Vic).

**Information Privacy Principles (IPPs)** – is a set of principles contained in the *Privacy and Data Protection Act 2014* (Vic) that regulates the handling of personal information.

**Personal information** - means information or an opinion (including information or an opinion forming part of a database), 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.

**Sensitive information** - has the same meaning given to it in the *Privacy and Data Protection Act 2014* (Vic), and includes information or an opinion about an individual's:

1. racial or ethnic origin; or
2. political opinions; or
3. membership of a political association; or
4. religious beliefs or affiliation; or
5. philosophical beliefs; or
6. membership of a professional trade association; or
7. membership of a trade union; or
8. sexual preferences or practices; or
9. criminal record.

**Unique identifier** - has the same meaning as given in the *Privacy and Data Protection Act 2014* (Vic).

## **Policy**

Council values the privacy of every individual and is committed to handling personal and health information in accordance with the privacy principles contained in the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic).

Council is bound by the 10 Information Privacy Principles (IPPs) and 11 Health Privacy Principles (HPPs) that outline how we manage an individual's personal and health information in regards to their interactions with Council. Protecting the privacy of individuals by handling their personal and health information in accordance with the IPPs and HPPs is an important aspect of Council's activities. All Contracted Council Service Providers must agree to be bound by the provisions of the *Privacy and Data Protection Act 2014* (Vic) in relation to all information they receive from Council or collect and store on behalf of Council, in the performance of the contracted service.

How Council will comply with each of these privacy principles is explained below.

## **Principle 1 - Collecting information (IPP1/HPP1)**

### **Collection notice**

When collecting personal or health information, Council will take reasonable steps, where practicable, to inform the individual of what information is being sought, the purposes for which the information is being collected, whether any law requires the collection of the information, how the information will be used or disclosed, and the main consequences, if any, of not providing the information.

Where the collection of personal information is solicited or facilitated by Council, relevant information relating to Council's collection of such information is set out in a collection notice, which is included on relevant forms, including registration forms and any other document or mechanism used to collect personal or health information.

Where personal information is unsolicited or when personal information is re-used for a related purpose it is often not possible for a collection notice to be provided. In these circumstances the general collection notices included in Attachment A to this policy apply. General collection notices published in Attachment A will be reviewed and updated by the Privacy Officer in conjunction with the Governance Manager in response to changing circumstances, but not less than once each year.

### **Information collected**

Council will only collect personal information that is necessary for carrying out its functions or activities, including those relating to:

- planning and building;
- rates and valuations;
- waste and environment, including recycling and waste management;
- community health services, including maternal and child health and immunisation;
- regulation of parking and roads;
- recreation and arts programs;
- library services; and
- local business support.

Council will endeavour to ensure that it only collects personal and health information that is necessary and relevant to the statutory functions, duties, powers, and administration of Council and the municipality under the *Local Government Act 2020* (Vic) and other Acts.

Council may also collect sensitive and health information but only will only do so where the person has given prior consent or as permitted under the *Privacy and Data Protection Act 2014* (Vic) and *Health Records Act 2001* (Vic).

The types of information collected by Council may include, but is not limited to the following:

- name;
- address (residential, postal or email);
- telephone number (work, home or mobile);
- date of birth;
- occupation;
- Medicare number;

- credit card or bank account details; and
- motor vehicle registration number.

If it is reasonable and practicable to do so, personal information will be collected directly from an individual, however, there are situations where Council may need to collect an individual's information from someone else. For example, this may be from Contracted Council Service Providers, emergency services or health service providers, from publicly available sources of information or pursuant to other laws which permit information sharing.

### **Images (including photographs and video)**

Images are at times taken on the Council's premises and in public places. Images will be collected and used by Council for asset management, staff communication, publicity or for law enforcement purposes.

Sometimes images collected by Council will include images of people. In these circumstances where practicable consent will be obtained through an image release and permission form. When images are collected in a public space (for example, during a community event) and obtaining the individual's consent via the forms is not practicable, Council will use other methods to inform individuals that images are being collected and how they will be used.

These methods may include signs or a public announcement to inform individuals that the images may be taken, and the individual has the opportunity to approach and advise Council staff or the photographer that they do not want the images to be used.

Please refer to Attachment A of this policy to see General Collection Notices.

## **Principle 2 - Using and disclosing information (IPP2/HPP2)**

### **Using information**

All Council staff members are required to handle all personal and health information in accordance with the *Privacy and Data Protection Act 2014* (Vic) and *Health Records Act 2001* (Vic).

### **Disclosing information**

Council will not use or disclose the individual's personal and health information other than for the primary purpose for which it was collected and for permitted secondary purposes under the *Privacy and Data Protection Act 2014* (Vic) and *Health Records Act 2001* (Vic), which include:

- For a secondary purpose that you would reasonably expect;
- Where we have the individual's consent;
- For law enforcement purposes and to protect safety; or
- Where Council is otherwise required or authorised by law to disclose the information.

Some examples of when Council may use this information, includes for:

- levying rates;
- billing for services provided;
- town planning and building approval processes; and
- the provision of family and community services.

Council may also disclose the information to:

- Contracted Council Service Providers that undertake work or manage services on Council's behalf, such as garbage collection and leisure centres;
- Government departments and agencies for the exercise of their statutory functions;
- Water, gas and electricity utilities for the purposes of their statutory functions and ensuring data is accurate;
- Police, fire and emergency services for emergency, public safety or law enforcement purposes;
- Integrity agencies, such as the Victorian Inspectorate, the Independent Broad-based Anti-Corruption Commission, and the Victorian Information Commissioner for their statutory purposes;
- Council's professional advisers, such as legal and financial advisors; and
- Council's insurers for the purposes of complaints or insurance claims investigations and resolution.

Where information is disclosed to Contracted Council Service Providers, they may contact individuals where relevant for the purpose for which they were engaged.

Council may be required by law (including under the *Freedom of Information Act 1982* (Vic) (FOI Act)) to make information available to the community. In this case Council will comply with the relevant legislation in doing so. Council is also required to maintain a number of public registers, such as election campaign donation returns under the *Local Government Act 2020* (Vic) and planning permit applications and permit decisions under the *Planning and Environment Act 1987*.

Personal information in applications for employment with Council may be supplied to agencies such as Victoria Police, as part of a background check. Such checks will only be carried out with the individual's written authorisation and the results will not be disclosed to a third party unless authorised by law.

### **Principle 3 - Keeping information accurate (IPP3/HPP3)**

Council takes reasonable steps to ensure the information it holds is accurate, complete, and up-to-date for the purpose for which it is to be used. Council relies on individuals to provide accurate and current information in the first instance, and to inform Council of changes to their details.

### **Principle 4 - Keeping information secure (IPP4/HPP4)**

Council uses a number of procedural, physical, software and hardware safeguards, together with access controls, secure methods of communication, back up and disaster recovery systems, to safely and securely store information and protect it from misuse and loss, unauthorised access, modification and disclosure.

Stored information is kept in accordance with the *Public Records Act 1973* (Vic).

### **Principle 5 - Openness (IPP5/HPP5)**

This principle requires organisations to have a Privacy Policy. This Policy details Council's management of personal and health information.

### **Principle 6 - Accessing and correcting information (IPP6/HPP6)**

Council is subject to the FOI Act. Access of the individual's personal affairs information is managed under this legislation.

Under the FOI Act the individual is also entitled to seek correction or amendment of a document containing their personal affairs information, where the individual believes the information is inaccurate, incomplete, and out of date or would give a misleading impression.

Requests for amendment must be made in writing and addressed to [foi@surfcoast.vic.gov.au](mailto:foi@surfcoast.vic.gov.au). The request for amendment must:

- Specify an address or email address to which a decision notice can be sent;
- Specify matters in which the person making the request believes personal information is incomplete, misleading or inaccurate;
- Specify the amendments to be made.

There are no fees for requests for amendments to personal information.

#### **Principle 7 - Unique identifiers (IPP7/HPP7)**

A unique identifier is defined in the *Privacy and Data Protection Act 2014* (Vic) as a number assigned by an organisation to an individual uniquely to identify that individual. Council will only assign unique identifiers to records if it is necessary to enable the Council to carry out a function efficiently. An example is an employee identifier for payroll purposes. To reduce the likelihood of unintended data matching, Council will not use a unique identifier assigned to a person by another organisation as a unique identifier for use by Council.

#### **Principle 8 – Anonymity (IPP8/HPP8)**

Where practicable and lawful, individuals may choose to remain anonymous when contacting the Council for example, when making general inquiries about services. In some cases, if individuals wish to maintain anonymity, Council may not be able to provide services or respond to complaints.

Individuals can visit Council's website anonymously because the site does not collect or record personal information other than information individuals choose to provide by email or internet forms.

#### **Principle 9 - Transborder Data Flows (IPP9/HPP9)**

If the individual's personal or health information travels outside of Victoria, the protection of the individual's privacy should travel with it.

Council will only transfer the individual's personal or health information outside of Victoria where:

- the disclosure is authorised by law,
- the individual consents,
- if the recipient receiving the information is subject to a legally binding scheme or contract similar to the principles of the *Privacy and Data Protection Act 2014* (Vic), or
- as otherwise permitted under the IPPs and HPPs.

#### **Principle 10 - Sensitive information (IPP10)**

As mentioned, Council will not collect sensitive information about the individual except in circumstances outlined in the *Privacy and Data Protection Act 2014* (Vic).

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

A person has a right to make a complaint if the individual believes Council has breached their privacy or if the individual has any concerns about the way Council has applied the IPPs or HPPs. A privacy complaint can be made via our website [www.surfcoast.vic.gov.au](http://www.surfcoast.vic.gov.au).

Alternatively you can mail your complaint to:

Surf Coast Shire Council  
1 Merrijig Drive (PO Box 350)  
Torquay 3228



### **Complaints through Office of the Victorian Information Commissioner**

If the individual is not satisfied with how Council has handled the complaint, the individual is entitled to make a complaint to the Office of the Victorian Information Commissioner (OVIC) (in respect of personal information) or the Health Complaints Commissioner (in respect of health information). Please note, the Commissioners may decline to hear your complaint if you have not made a complaint to Council first.

The contact details for OVIC are as follows:

Office of the Victorian Information Commissioner  
PO Box 24274  
MELBOURNE VIC 3001  
Email: [enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)

Additional information is available on the [Commissioner's website](#).

To lodge a complaint with the Health Complaints Commissioner, please see its website for a complaint form - <https://hcc.vic.gov.au/make-complaint>.

### **Implementation of this Policy**

#### **Monitoring and reporting**

The Governance Unit is responsible for the implementation of this policy.

Reporting to the Audit and Risk Committee will take place annually or when a privacy breach is identified.

#### **Advice and assistance**

The Responsible Officer for this policy manages the provision of advice to the organisation regarding this policy.

A person who is uncertain how to comply with this policy should seek advice from this person or from their Manager.

#### **Records**

Council must retain records associated with this policy and its implementation for at least the period shown below. Refer to Retention and Disposal Authority for Records of Common Administrative Functions PROS 07/01 VAR 7, section 9.9.



<b>Record</b>	<b>Retention/Disposal Responsibility</b>	<b>Retention Period</b>	<b>Location</b>
Records associated with requests made in relation to access to or correction of personal information held	Manager Integrity & Governance	Temporary Destroy after administrative use has concluded.	Document Management System
The records associated with complaints made concerning breaches of the IPPs that are not resolved internally and have been referred to the Office of the Victorian Information Commissioner.	Manager Integrity & Governance	Temporary Destroy 15 years after action concluded.	Document Management System
The records associated with complaints made concerning breaches to the Privacy & Data Protection Act 2014 that are resolved internally by an agency.	Manager Integrity & Governance	Temporary Destroy 7 years after action concluded.	Document Management System
Records relating to the physical security arrangements for records management systems.	Manager Digital Information & Technology	Temporary Destroy 5 years after action concluded.	Document Management System
Records associated with establishing and assigning security levels and caveats within records management systems.	Manager Digital Information & Technology	Temporary Destroy 5 years after action concluded.	Document Management System
Records relating to the use of on-site storage areas	Manager Digital Information & Technology	Temporary Destroy 2 years after action concluded.	Document Management System
Records relating to the selection and use of off-site storage areas.	Manager Digital Information & Technology	Temporary Destroy 7 years after administrative	Document Management System

		use has concluded.	
Records relating to security arrangements for records storage areas.	Manager Digital Information & Technology	Temporary Destroy 2 years after action concluded.	Document Management System
Records relating to the retrieval of records held by PROV and secondary storage providers including both physical and online retrieval.	Manager Digital Information & Technology	Temporary Destroy after administrative use has concluded	Document Management System

### Local Government Act 2020 (Vic) Principles

Principles	Applicable to policy	If yes, provide details
<b>Governance Principles</b> (Consideration of the Overarching Governance Principles under s.9 of LGA 2020)	Yes/No	(a) Council decisions are to be made and actions taken in accordance with the relevant law.
<b>Community Engagement</b> (Consideration of the Community Engagement Principles under s.56 LGA 2020)	Yes/No	
<b>Public Transparency</b> (Consideration of the Public Transparency Principles under s.58 of LGA 2020)	Yes/No	(a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act.
<b>Strategies and Plans</b> (Consideration of the Strategic Planning Principles under s.89 of LGA 2020)	Yes/No	
<b>Financial Management</b> (Consideration of the Financial Management Principles under s.101 of LGA 2020)	Yes/No	
<b>Service Performance</b> (Consideration of the Service Performance Principles under s.106 of LGA 2020)	Yes/No	

### References

- Attachment A - D22/180712
- Privacy and Data Protection Act 2014 (Vic)
- Freedom of Information Act 1982 (Vic)
- Health Records Act 2001 (Vic)

- *Public Records Act 1973 (Vic)*
- *Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Local Government Act 2020 (Vic)*

#### **Document History**

Version	Document History	Approved by – Date
1	<i>Privacy and Data Protection Policy</i>	

# SCS - 031 Privacy and Data Protection

## Attachment A

### General Personal Information Collection Notices [Collection Notices]

Surf Coast Shire Council (Council) is committed to protecting the privacy of individuals. Where Council collects personal information, such information will be collected in accordance with the Privacy and Data Protection Act 2014.

This document provides general notice regarding the collection of personal information by Council.

Where:

1. personal information collection is solicited by Council, either by direct request or by the provision of a form specific to that type of information or a defined process, then a Personal Information Collection Notice can be provided at the time the personal information is collected (for example a collection notice may be included in a data collection form published on Council's website);
2. personal information is collected from an unsolicited source, for example, a letter of complaint not on a specific Council feedback form, then it is not possible to provide a collection notice at the time of collection;
3. personal information is collected in an unsolicited form, from a formal process managed by an outside source e.g. notice of acquisition that is required for property owners to supply to Council, it is often not possible to provide a collection notice at the time of collection because Council does not control the form; and
4. personal information is collected for one purpose and later used for other purposes, it is often not possible to provide a collection notice because the personal information has already been collected.

In circumstances 2, 3 and 4 above, it is appropriate for Council to include general collection notices as part of its privacy policy. These general collection notices do not replace the need for specific notices to be in place when Council solicits the collection of personal information.

### Collection Notice – Land Owner Personal Information

The details of people who own land in the shire are an important asset to the shire. Details include names, addresses and contact details for land owners.

This land owner information is initially collected through the state sponsored Notice of Acquisition scheme managed by the State Revenue Office and copies of notices are provided to Council pursuant to section 122(1) of the Local Government Act 2020. From time to time contact details are updated by the land owners themselves or their representatives, as contact details change.

Land owner information is used by Council to effectively and efficiently discharge its statutory functions and to ensure the peace, order and good governance of Council.

Where the land owner information is personal information relating to natural people, Council is required to comply with Information Privacy Principles (IPPs), particularly IPP 2 relating to use and disclosure of such information.

Council uses land owner information for the following purposes:

- a. manage the roles of voters for the Surf Coast municipal district;
- b. levying of rates and charges;
- c. for the purposes of processing planning and/or building permit applications;
- d. providing advice to land owners about activities of Council, government agencies and of near-by, adjacent and adjoining land owners, which may affect them or the property they own; and for law enforcement purposes.

Council may also disclose land owner information to other municipalities and government agencies (including water and electricity companies) for the purpose of providing advice to land owners about activities of councils, government agencies and of near-by, adjacent and adjoining land owners, which may affect them or the property they own; and to emergency services for the purpose of attending properties or contacting land owners or occupiers.

### **Collection Notice – Petitions to Council**

From time to time Council receives petitions from citizens which contain names and contact details of individuals. This is an important part of ensuring good governance in the shire. The names and contact details are personal information of the people who sign the petitions.

When Council receives a petition, it may be made public and the signatories and the contact details may be disclosed to people requesting or accessing a copy of the petition.

If you are concerned about the possible disclosure of your name or contact details please do not put them into or onto a petition to Council. If you are concerned about the possible disclosure of your name or contact details but you still want to express your views to Council, please contact Council to use a separate process for providing feedback to Council [see the collection notice for Complaints and Feedback to Council].

### **Collection Notice – Complaints & Feedback to Council**

From time to time Council receives unsolicited complaints and feedback from people regarding activities in the municipal district or actions proposed to be taken or actually taken by Council. Because they are unsolicited, it is not possible to provide a collection notice for all of these complaints and feedback items.

Council will use the personal information collected through the receipt of complaints and feedback in order to properly manage the matter and where appropriate to provide a response to the complainant or the person providing feedback.

Council may also disclose the personal information to contractors engaged to act on behalf of Council in the delivery of the relevant service, to insurers and legal representatives of Council

where required, and to government integrity bodies including the Ombudsman, IBAC, the Victorian Inspectorate, where necessary.

In most instances, Council will not disclose to a third party, personal information of people who have lodged complaints with Council or provided feed-back to Council, except as set out above, without first notifying the person about whom the personal information relates and giving that person a chance to object or provide their views to Council.

### **Collection Notice – Council Staff names and contact details**

In this section, the term **use** means use of employee personal information by the shire internally within the Council as a work unit; the term **disclosure** means the disclosure of employee personal information to people outside the Council [e.g.: to rate payers, to integrity bodies and to the general public].

Council collects personal information about employees at the time of employment. This includes the employee's name and position or role title and in some cases work telephone and email contacts. This notice relates to employee personal information which includes names and position or role titles and contacts or **Employee Contact Information**.

**Use of Employee Contact Information** – employee name, position and contact information is collected from employees at the time of employment and updated from time to time when the employee changes duties as a result of re-assignment, promotion re-structure or other changes incidental to employment; or is re-assigned equipment or when work locations or council structures change.

Employee contact information is used and distributed throughout Council by various means and in various business systems to enable and facilitate effective communications within Council.

Employees who wish to have their personal information protected from such use must consider this when accepting employment. It is necessary when working for Council in any capacity that an employee be identifiable and contactable by work colleagues.

If employees are uncomfortable with the use described above, they should consider the use of an alternative name for employment purposes (e.g. a maiden name or second name at the time employment commences).

**Disclosure of Employee Contact Information** – This notice relates to the disclosure of employee contact information in Council documents as a result of the discharge of the officer's normal employment activities. This notice does not relate to documents concerning an employee's initial engagement, work performance, work conditions or rate of pay or other matters not incidental to the performance of normal duties of the employee's position.

Where requests are made for access to information relating to an employee, the following information will generally be disclosed:

- The employee's name, position and contact details where the employee is manager level or above;

- The name and position of employees who authorize receipt or expenditure of money; and
- The name and position of employees who deal with members of the public where relevant to the carrying out of their usual duties.

However, where the employee's name or contact details are ancillary or facilitative to a process, then this information will generally not be disclosed in relation to any request for documents containing that information, subject to the FOI Act.

For more information about the way in which Council collects personal information and/or the way in which such information will be handled by Council, please contact the FOI and Privacy Officer at [foi@surfcoast.vic.gov.au](mailto:foi@surfcoast.vic.gov.au) or tel: 035261 0600.