

Health Privacy Policy

1. ABOUT THE POLICY

Councils provide a range of health services and programs to assist the community and collect health information necessary to facilitate these services and programs. Some of these include:

- maternal and child health services.
- immunisation services.
- youth support services.

Council also holds health information about individuals, such as information contained in:

- disabled parking permit applications.
- an application form submitted as part of the Early Childhood Services enrolment.
- any worker's compensation/WorkCover claims.

The *Health Records Act 2001* provides 11 Health Privacy Principles (HPPs) that Council is required to comply with to ensure the fair and responsible collection and handling of health information.

The purpose of the Health Privacy Policy is to establish a framework to outline Council's obligations to ensure that health information is collected, held, managed, used, disclosed or transferred in accordance with the *Health Records Act 2001 (the Act)*, including the Health Privacy Principles (HPPs) contained within the Act.

About the *Health Records Act 2001*:

The purpose of this Act is to promote fair and responsible handling of health information by

- protecting the privacy of an individual's health information that is held in the public and private sectors; and
- providing individuals with a right of access to their health information; and
- providing an accessible framework for the resolution of complaints regarding the handling of health information.

Health Privacy Principles

Principle 1: Collection

Principle 2: Use and Disclosure

Principle 3: Data Quality

Principle 4: Data Security and Data Retention

Principle 5: Openness

Principle 6: Access and Correction

Principle 7: Identifiers

Principle 8: Anonymity

Principle 9: Transborder Data Flows

Principle 10: Transfer or closure of the practice of a health service provider

Principle 11: Making information available to another health service provider

This Policy outlines:

- How Council collect and use your health information
- How your information remains current and how to update or correct health information
- The security of the data and information kept
- Transparency of information and the right to anonymity
- Complaint process if you are not satisfied with how Council have handled your information.

2. COUNCIL'S COMMITMENT

Whitehorse City Council (Council) is committed to protecting the privacy and confidentiality of an individual's health information and is committed to full compliance with its obligations under the *Health Records Act 2001* and the Health Privacy Principles (HPPs).

Council's obligation is to ensure that all health information is collected and managed appropriately and in accordance with legislation whilst protecting the rights of individuals regarding their health information and fostering a culture of respect for privacy across our organisation.

3. Health Privacy Quick Guide

What is health information?	Health information is defined as information or opinion about: • the physical, mental or psychological health (at any time) of an individual. • a disability (at any time) of an individual. • an individual's expressed wishes about the future provision of health services to him or her. • a health service provided, or to be provided, to an individual, that is also personal information; or • other personal information collected to provide, or in providing, a health service. • other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances. • other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of their descendants.
How does Council collect my information?	Council will collect health information about someone when it is necessary for one or more of its services, functions or activities. Council generally only collects health information when a person has provided consent however Council may also collect health information as required by law, under HPP 2, for health monitoring, research, statistics, public safety, law enforcement, or legal purposes. Council will collect health information only by lawful and fair means and will endeavour to do so in a manner that is not unreasonably intrusive.

How does Council use my information?	Council will only use a person's health information for the primary purpose for which it was collected or for a secondary purpose if it is directly related to the primary purpose and the individual would reasonably expect the use or disclosure. The policy details other limitations of use and disclosure of health information.
Will my information be disclosed to anyone?	Council may disclose health information for the primary or secondary purpose, with consent, as required by law and as outlined in HPP2. If the use or disclosure of health information about someone is not related to the primary purpose of collection then Council must obtain the consent of that person
What is a secondary use purpose?	A secondary purpose is a purpose that is directly related to the primary purpose of collection and something that the individual would reasonably expect Council to use or disclose their personal information for. A secondary purpose has a logical connection or closely associated with the primary purpose.
How does Council protect my information?	Council will take all practicable steps to ensure that health information held by Council is stored safely and securely, so that it is protected from misuse, loss and unauthorised modification and disclosure. This applies regardless of the format in which the information is held. Council will take all necessary measures to prevent unauthorised access to, or disclosure of, your health information. Any information that has passed its retention period will be destroyed in accordance with the <i>Public Records Act 1973</i>.
Can I access my information?	You can request access to your health information via a Freedom of Information request under the <i>Freedom of Information Act 1982</i>.
Can I update or correct my information?	If you believe your information is inaccurate, incomplete, out of date or misleading you can request Council to update the information under the <i>Freedom of Information Act 1982</i>. Requests seeking amendment of information must state the information that is believed to be inaccurate and what changes are requested to be made.
What do I do if I have an issue with Council's handling of my information?	If you have a complaint with Council's handling of your health information you can lodge a complaint with the Freedom of Information & Privacy Specialist Officer. If you are not satisfied with how Council deals with your complaint, you may make a complaint to the Health Complaints Commissioner.

HEALTH PRIVACY PRINCIPLES (HPPs)

Principle 1 - Collection

Council will only collect health information about someone when it is necessary to complete a function or activity. Council will only collect the information if:

- the person has provided consent;
- the collection is required, authorised or permitted, by or under a law;
- the information is disclosed to Council in accordance with HPP 2;
- the collection of health information is necessary for monitoring the health and wellbeing of clients, research, or the compilation or analysis of statistics which serves a public interest. If identifiable data is required for the purpose of the research or statistical analysis Council will obtain consent from the persons, unless it is impracticable to do so;
- it is necessary to prevent or lessen a serious and imminent threat to public life, health, safety or welfare of someone, or a serious threat to public health, public safety, or public welfare;
- it is on behalf of a law enforcement agency or the Council itself and is necessary for a law enforcement function; or
- the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

Council will collect health information only by lawful and fair means and will endeavour to do so in a manner that is not unreasonably intrusive.

If someone is not able to provide consent and Council needs to collect information in order to provide a health service, all practical measures to obtain the consent of an authorised representative will be taken.

If it is reasonable and practicable to do so, Council will only collect health information about an individual from that individual.

If Council collects an individual's health information from them or from another person, Council will take reasonable steps to ensure (before or at the time) that they are aware of:

- who is collecting the information.
- how Council may be contacted.
- the rights to access the information.
- the purpose for which Council has (or will be) collecting the information.
- if, and who, Council will be disclosing this information to;
- whether it is being collected because a law requires it; and
- the main consequence (if any) for them if all or part of the information is not provided.

Principle 2 – Use and Disclosure

Council will only use or disclose an individual's health information for the primary purpose for which it was collected.

Council may also use or disclose health information for a secondary purpose if:

- It is directly related to the primary purpose and the individual would reasonably expect the use or disclosure;
- The individual has consented;
- It is required by law; or
- As outlined in Principle 2, section 2.2 (d)(e)(f)(g)(h)(i)(j)(k) and (l) of the Act.

If the use or disclosure of health information about someone is not related to the primary purpose of collection then Council must obtain the consent of that person (or authorised representative) unless the use or disclosure is required by or under law.

If the Council does disclose health information about someone as part of an investigation into unlawful activity or if it is necessary for, or on behalf of, a law enforcement function then Council will make a written note of that disclosure.

Principle 3 – Data Quality

Council will take all reasonable steps to make sure that, having regard to the purpose for which the information is to be used, the health information it collects, uses, holds or discloses is accurate, complete, up to date and relevant to its functions or activities.

You may request to amend health information held by Council. Details on how to do so are under Principle 6 – Access and Correction

Council may contact individuals to confirm that the information we hold is correct via telephone, mail or email to ensure Council is meeting our obligations under HPP 3 - Data Quality.

Principle 4 – Data Security

Council will take all reasonable steps to protect the health information it holds from misuse and loss and from unauthorised access, modification or disclosure.

Any health information that Council holds, which is no longer necessary for Council's purposes, will be archived or disposed of in accordance with the document retention and disposal requirements of the *Public Records Act 1973* and the Public Records Office Victoria.

Principle 5 – Openness

On request, Council will take reasonable steps to let someone know if it holds any health information about them and how they can access that information. At that time Council will advise that person in general terms the nature of the information, the purpose for the information is used and how Council collects, holds, uses and discloses the information.

Principle 6 – Access and Correction

Council is committed to providing individuals with access to the health information which it holds about them on request. However, there are some circumstances where Council may deny access as outlined in the Additional Fact Sheet.

If individual believes that their health information is inaccurate, incomplete, misleading or not up to date, Council will take reasonable steps to correct the information so that it is accurate, complete and up to date.

Requests for access to and correction of documents containing health information are generally managed under the *Freedom of Information Act 1982*.

Please contact Council's Freedom of Information & Privacy Specialist Officer to discuss your requirements.

Requests for access to Health Records under the *Freedom of Information Act 1982* must be made in writing using the “**Access to Health Records**” application form on Council's website stating as precisely as possible what information is required or needs correction.

For requests seeking amendment of health information, they must state the information is believed to be inaccurate, incomplete, and out of date or would give a misleading impression and what changes are requested to be made, and addressed to the:

Freedom of Information & Privacy Specialist Officer
Whitehorse City Council
Locked Bag 2
Nunawading Delivery Centre VIC 3131
Email: FOI@whitehorse.vic.gov.au

Where a person requests Council to correct their health information Council will take reasonable steps to notify the person of the decision of the request as soon as practicable, or within 30 business days of the request being received.

Principle 7 – Unique Identifiers

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a driver's licence number).

Unique identifiers may be assigned where necessary to enable Council to carry out any of its functions efficiently. An example is the unique identifier assigned to customers in Council's central customer database to ensure that there is only one name record for each individual customer.

Principle 8 – Anonymity

Council must, where it is lawful and practicable give individuals the option of not identifying themselves and remaining anonymous when dealing with Council.

However, anonymity may limit Council's ability to act. Therefore, if you choose not to supply personal information that Council considers is necessary for it to perform its functions, Council reserves the right to take no further action on the matter.

Principle 9 – Transborder Data Flows

In some instances, the Council may be asked to transfer health information about someone to another person or organisation that is outside Victoria. This will only occur if:

- Council is assured that the person or organisation receiving the information is subject to a legal requirement that equals the Health Privacy Principles.
- the person who is the subject of the health information has provided consent.
- the transfer is necessary for the performance of a contract between an individual and the organisation.
- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party.

All the following apply:

- the transfer is for the benefit of the individual.
- It is impracticable to obtain the consent of the individual to that transfer.
- If it were practicable to obtain the consent, the individual would be likely to give it.
- Council will take reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles; or
- the transfer is authorised or required by any other law.

Principle 10 – Transfer or Closure of the Practice of a Health Service Provider

If Council discontinues its health services, it will publish a notice in a newspaper that circulates in the locality of the practice or business.

This notice will address how the health service provider proposes to deal with any health information it holds about people who have used the service, whether they mean to retain the information or to transfer it to the new provider.

Council will contact those people whose health information it holds, to let them know what will happen with the information.

If a Council health service provider is to be sold or transferred or amalgamated and the provider continues to provide a health service, they can elect to retain the health information. If this occurs, they will continue to hold it, in accordance with these Health Privacy Principles or transfer it to a competent organisation for safe storage in Victoria until that health information is destroyed in accordance with Health Privacy Principle 4.

Principle 11 – Making Information Available to another Health Service Provider

If an individual requests a Council operated health service provider to make health information relating to them available to another health service provider, or that person authorises another health service provider to request the health information from Council, Council will, on payment of a fee, provide a copy or written summary of that health information to that other health service provider.

Council will endeavour to provide this information as soon as practicable.

4. COMPLAINTS

Individuals can send written complaints directly to Council about a breach, or perceived breach of privacy in the first instance and a written response will be provided to the complainant.

Freedom of Information & Privacy Specialist Officer
Whitehorse City Council
Locked Bag 2,
Nunawading Delivery Centre VIC 3131
Telephone: (03) 9262 6333
E-mail: Privacy.Officer@whitehorse.vic.gov.au

Complaints can also be directed to the Health Complaints Commissioner, although the Commissioner can decline a complaint if the complainant has not previously complained directly to the Council.

5. STAFF TRAINING AND AWARENESS

All Council employees and volunteers who are dealing with health information on a daily basis will receive training to increase their awareness in relation to the treatment of personal information in the workplace.

The Employee Code of Conduct, issued to all staff, deals with the use and disclosure of information obtained in the course of employment and with the confidentiality obligations of staff that have left the organisation. All new staff members are required to sign and acknowledge that they understand the requirements set out in the Employee Code of Conduct.

6. RESPONSIBILITIES

All employees and volunteers of Whitehorse City Council who are dealing with health information are expected to abide by Council's Health Privacy Policy and to work within their teams to ensure that it's understood that Council is committed in ensuring that health information is collected and handled in a responsible manner and in accordance with the *Health Records Act 2001*.

7. DEFINITIONS

Health Records Act 2001	The Act created a framework to protect the privacy of individual's health information. It regulates the collection and handling of health information.
Health Information	Information or opinion about: • the physical, mental or psychological health (at any time) of an individual. • a disability (at any time) of an individual. • an individual's expressed wishes about the future provision of health services to him or her. • a health service provided, or to be provided, to an individual, that is also personal information. • other personal information collected to provide, or in providing, a health service. • other personal information about an individual collected in connection with the donation, or intended donation, by the individual of their body parts, organs or body substances. • other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of their descendants.
Health Privacy Principles (HPPs)	Are the principles that regulate the handling of personal information that is also health information. These principals form part of the <i>Health Records Act 2001</i> .
Health Service	is defined as: • an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organisation performing it. • to assess, maintain or improve the individual's health. • to diagnose the individual's illness, injury or disability. • to treat the individual's illness, injury or disability or suspected illness, injury or disability. • a disability service, palliative care service or aged care service. • the dispensing on prescription of a drug or medicinal preparation by a pharmacist • a service or class of service provided in conjunction with an activity or service referred to in.

Health Service Provider	An organisation that provides health services within Victoria but does not include those providers specifically exempted for the purpose of the <i>HRA</i> .
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8. REVIEW

Policy Owner	Coordinator Information Management
Responsible Department	Governance & Integrity
Reference	24/100502
Version	1
Policy Status	☐ Draft ☒ Adopted
Date Adopted	5 June 2024
Adopted via	☐ Council ☒ ELT ☐ Other
Next Review Date	5 June 2026
Relevant Legislation	<i>Health Records Act 2001</i> <i>Privacy and Data Protection Act 2014</i> <i>Freedom of Information Act 1982</i> <i>Victorian Charter of Human Rights and Responsibilities Act 2006</i> <i>Local Government Act 1989</i> <i>Public Records Act 1973</i> <i>Local Government Act 2020</i> <i>Equal Opportunity Act 2010</i> <i>Occupational Health and Safety Act 2004</i> <i>Working with Children Act 2005</i>
Related Records	Health Privacy Additional Fact Sheet Whitehorse City Council Privacy Policy