



Ararat Rural City

# Privacy Policy

## **DOCUMENT CONTROL**

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Responsible Officer: Governance and Administration Coordinator

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Stakeholder Engagement:

Councillors

Chief Executive Officer

Governance and Administration Coordinator

## INTENT

This policy explains how the Ararat Rural City Council (Council) will collect, hold, use and disclose personal and health information of individuals, how individuals can gain access to their information, and correct inaccuracies, and how an individual may complain about possible breaches of privacy.

Victorian Councils are required to comply with the *Privacy & Data Protection Act 2014* and the *Health Records Act 2001*. The *Privacy & Data Protection Act 2014* regulates the management, collection, use and disclosure of 'personal information' and 'sensitive information' whilst the *Health Records Act 2001* regulates the management, collection, use and disclosure of 'health information'.

This policy applies to all Councillors, employees, volunteers and contractors of Council, specifically to those persons responsible for public registers and the receiving and management of personal and health information.

This policy applies to all personal information held by Council, including information sourced by Council from third parties.

Where a contractor of Council breaches the Information Privacy Principles (IPPs) the Council will be held responsible, unless the contractor has agreed to be bound by the IPPs in an enforceable contract with Council. For this reason, all new contracts should include a provision ensuring that third party contractors, including sub-contractors to them, are bound by the IPP's in the same way and to the extent as Council. Model Terms to be used in contracts, MOU's and /or agreements have been included in this policy. To assist with compliance the contractor must be provide with a copy of this policy.

## POLICY

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

Council is committed to full compliance with the 10 Information Privacy Principles (IPPS) and 11 Health Privacy Principles (HPPS) as set out in the Acts when managing information.

## PRINCIPLES

### Collection

Council will only collect personal information that is necessary for its functions and activities. In some instances, it has a legal obligation to collect personal information.

Council will only collect sensitive information where an individual has consented or as permitted under the Act.

If it is reasonable and practicable to do so, Council will collect personal information and health information about individuals directly from those individuals.

When collecting personal or health information, Council will take reasonable steps to advise people 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.

## Privacy Statement

Where practical a statement outlining Council's position on the handling of personal and health information will be used at all points of collection and all outgoing correspondence that may require personal information. This applies to hardcopy and electronic communication. This statement could be provided in a form similar to the following:

*Ararat Rural City Council is committed to protecting your privacy. The Personal and or Health Information collected by Ararat Rural City Council is used for [insert municipal purposes]. The Personal and or Health Information will be used solely by Council for these purposes or directly related purposes. Council may disclose this information to other organisations if required by legislation. The applicant understands that Personal and or Health Information provided is for the above purpose and that he or she may apply to the Council for access to and / or amendment of the information. Requests for access and or correction should be made to the Privacy Officer, Ararat Rural City Council, PO Box 246, Ararat Vic 3377. Phone: 5355 0261. Email: [council@ararat.vic.gov.au](mailto:council@ararat.vic.gov.au)*

## Use and Disclosure

Council will only use personal information for the primary purpose for which it is collected.

Council will only use or disclose personal information for a "secondary purpose" in specified circumstances, if:

- the secondary purpose is related to the primary purpose of collection,
- an individual would reasonably expect disclosure of the information for a secondary purpose; or
- an individual has consented to the use or disclosure; or
- the use of the information is required for research, analysis of statistics, in the public interest, other than for publication in a form that identifies any particular individual (if it is impracticable for Council to seek an individual's consent for disclosure); or
- Council reasonably believes that the use or disclosure is necessary to lesson or prevent –
  - A serious or imminent threat to an individual life, health, safety or welfare, or that of the public; or
  - A serious threat to public health, public safety or public welfare; or
- Council has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or
- The use and disclosure is required by Law Enforcement Agencies including ASIO and ASIS; and make a written record of the use or disclosure. This will be recorded in Council's document management system.

## Data Quality

Council will take reasonable steps to ensure personal and health information it collects is accurate, complete and up to date. Individuals are required to contact Council when circumstances change so Council can perform its relevant functions.

## Data Security

Council will take reasonable steps to:

- Protect personal information from misuse and loss and from unauthorised access, modification or disclosure;
- Destroy or permanently de-identify personal information if it is no longer needed.

## Openness

Council's Privacy Policy is available on Council's website. The policy details the Council's management of personal and health information.

Upon request by a person, Council will take reasonable steps to inform of the type of information it holds, the purpose of collection, how it is collected, used and disclosed.

## Access and Correction

Individuals can request access to any personal or health information held about them and may request any incorrect information to be corrected.

Council will take reasonable steps to correct information so that it is accurate, complete and up to date.

The process for requesting access to personal & health information held by Council will be handled in accordance with the Freedom of Information Act 1982 and addressed to the:

Freedom of Information Officer,  
Ararat Rural City Council,  
PO Box 246, Ararat 3377.  
[foi@ararat.vic.gov.au](mailto:foi@ararat.vic.gov.au)

## Unique Identifiers

Council will only assign a unique identifier to identify a person if the assignment is reasonably necessary to carry out its functions effectively.

A unique identifier is a string of characters (usually numbers) used to identify particular individuals. Council can use unique identifiers to manage their affairs and identify their clients and it has obtained the consent of the individual.

## Anonymity

Council will give individuals the option of not identifying themselves when communicating with Council where it is lawful and practicable.

Anonymity may limit Council's ability to process a complaint or another matter, Council reserves the right to take no action on any matter where an individual has chose not to supply relevant personal information so that Council can adequately perform it functions.

## Transborder Data Flows

Council may transfer personal or health information about an individual to someone (other than the organisation or the individual) outside Victoria where permitted by the Privacy & Data Protection Act 2014 and the Health Records Act 2001.

For instance:

- Council reasonably believes the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are similar to the IPPs; or
- The individual consents to the transfer; or
- the transfer is necessary for the performance of a contract between the individual and Council; or
- the transfer is for the benefit of the individual; or
- it is impracticable to obtain the consent of the individual to that transfer, and the individual would be likely to give consent; or

- the information transferred will not be held, used or disclosed by the recipient of the information inconsistently with the IPPS.

Council includes specific requirements in any contract, MOU or agreement it has third party contractors.

### *Contract, MOU or Agreement Requirements*

The following Model Terms have been taken from the Office of the Information Commissioner's "Model Terms for Transborder Data Flows" document.

1. The Recipient agrees that it is bound by the Information Privacy Principles and any applicable Code of Practice with respect to any act done, or practice engaged in, by the Recipient for the purposes of this Agreement in the same way and to the same extent as Council would have been bound by them in respect of that act or practice had it been directly done or engaged in by Council.
2. Council may disclose to any person the fact that the Recipient is a party to this Agreement for the purpose of allowing such person to assess whether Transferred Personal Information is adequately protected in the hands of the Recipient. Council may also disclose a pro forma document containing terms substantially similar to the terms of this Agreement to any person for such purpose.
3. The Recipient agrees that it will not at any time do an act, or engage in a practice, in respect of Transferred Personal Information, that would breach an Information Privacy Principle. Specifically, the Recipient:
  - a will not collect, use, disclose and otherwise handle the Transferred Personal Information for any purpose other than the primary purpose specified in this Agreement without the prior written permission of Council or the Data Subject or where required or authorised by or under Law;
  - b will not disclose the Transferred Personal Information to a person (further recipient) who is not Council;
  - c will take reasonable steps to ensure the security and quality of the Transferred Personal Information.
4. The Recipient will immediately notify Council, in writing, of any breach or suspected breach of its obligations under this Agreement whether on the part of itself or its officers, employees, volunteers, agents or subcontractors and of the steps taken to repair the breach.
5. The Recipient will allow and cooperate with any independent investigation of complaints by Council, OVIC or any person or body nominated by Council and provide appropriate redress to complaints for any harm arising from its failure to effectively uphold the IPPs
6. The Recipient at all times indemnifies and holds harmless Council from and against any loss, cost (including legal costs and expenses) or liability incurred or suffered by any of those indemnified arising from or in connection with any complaint, claim, suit, demand, action or proceeding by any person (including, but not limited to, any award, order or similar judgment or direction by the OVIC) where such loss or liability was caused or contributed to by the Recipient's act or omission in handling Transferred Personal Information, whether deliberate or not.
7. Upon the termination of this Agreement, or upon the Council's written request prior to the termination of this Agreement, the Recipient will return or destroy Transferred Personal Information including all copies, in whatever form, of the Transferred Personal Information held or controlled by the Recipient.

### **Sensitive Information**

Council will not collect sensitive information about an individual unless:

- the individual has consented; or
- the collection is required under law; or

- the collection is necessary to prevent serious or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns –
  - is physically or legally incapable of giving consent to the collection; or
  - physically cannot communicate consent to the collection; or
- the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

At times Council may collect sensitive information about an individual if the collection is necessary for research, for the purpose of government funded targeted welfare or education services and no other practical way to seek individuals consent.

Sensitive information is information or an opinion about an individual's:

- race or ethnic origin; or
- political opinions; or
- member of a political association; or
- religious beliefs or affiliations; or
- member of a professional or trade association; or
- member of a trade union; or
- sexual preference or practices; or
- criminal record.

that is also personal information.

#### **Transfer or Closure of the Practice of a Health Service Provider**

If Council discontinues the delivery of a health service it will give notice of the closure to past service users directly and by way of a notice in the local newspaper.

#### **Making Information available to another Health Service Provider**

Council will make health information relating to an individual available to another health service provider if requested to do so by the individual.

#### **External Contractors**

Where an external contractor deals with personal information on behalf of the Council, they will be required to comply with the Privacy and Data Protection Act 2014 or the Health Records Act 2001, whichever is applicable.

Also refer to section "Transborder Data Flows"

#### **Changes**

Council may amend this Privacy Policy from time to time.



## Complaints

If any persons feel aggrieved by Council's handling of personal information or health records about themselves, they may make a complaint to:

Privacy Officer  
 Ararat Rural City Council  
 PO Box 246, Ararat Vic 3377  
 Phone: 5355 0261.  
 Email: [council@ararat.vic.gov.au](mailto:council@ararat.vic.gov.au)

Every complaint will be investigated as soon as possible (but no later than five (5) business days) and the complainant will be provided with a written response.

Alternatively, any person may make a privacy complaint to Office of the Victorian Information Commissioner or the Health Complaints Commissioner using the appropriate forms downloaded from their websites: Commissioners may decline to hear the complaint if it has not first been made to Council).

Office of the Commission of Information  
 Commissioner (OVIC)  
 Form available from  
<https://ovic.vic.gov.au/resource/privacy-complaint-form/>  
 Telephone: 1300 006 842  
 Email: [privacy@ovic.vic.gov.au](mailto:privacy@ovic.vic.gov.au)  
 Or post to: PO Box 24014, Melbourne Vic 3001

Health Complaints Commissioner  
 On-line form available from  
<https://hcc.vic.gov.au/health-records/reporting-privacy-breaches-involving-health-information>  
 Telephone: 1300 582 113  
 Email: [hcc@hcc.vic.gov.au](mailto:hcc@hcc.vic.gov.au)

Terms/Definitions	
Term	Definition
<b>Personal Information</b>	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 and generally available information (to which the Health Records Act 2001 applies). Examples of personal information collected by Council might include names, addresses, phone numbers, date of birth, medicare number or motor vehicle registration of an individual. This information is collected for specific purposes, for example; to provide planning, valuation and property services and parking permits. Council may also request personal information in order to provide education, welfare and other community services (childcare services, holiday programs). In some instances, personal information may be contained on a public register, for example; register of building permits, food premises and animal registration details. Personal information is information directly related to the personal affairs of an individual that enable or could enable the person to be identified.
<b>IPPs – Information Privacy Principles</b>	Set of principles that regulate the handling of personal information.
<b>HPPs – Health Privacy Principles</b>	Set of principles, that are similar to the IPPs, but specifically refer to the handling of Health Information

<p><b>Public Registers</b></p>	<p>Documents that;</p> <ul style="list-style-type: none"> <li>• Are open to inspection by members of the public</li> <li>• Contain information required or permitted by legislation</li> <li>• Contain personal information, unless generally available publicly.</li> </ul>
<p><b>Unique Identifier</b></p>	<p>An identifier (usually a number) assigned by an organisation to an individual uniquely to identify that individual for the purposes of the operations of the organization but does not include an identifier that consists only of an individual's name.</p>
<p><b>Health Information</b></p>	<p>Information or an opinion about;</p> <ul style="list-style-type: none"> <li>• The physical, mental or psychological health of an individual; or</li> <li>• A disability of an individual; or</li> <li>• An individual's expressed wishes about the future provision of health services to him or her; or</li> <li>• A health service provided, or to be provided, to an individual that is also personal information; or</li> <li>• Other personal information including             <ul style="list-style-type: none"> <li>- Personal information collected to provide, or in providing, a health service, or</li> <li>- 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, or</li> <li>- 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 his or her descendants.</li> </ul> </li> </ul>
<p><b>Health Service</b></p>	<p>An activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organization performing it –</p> <ul style="list-style-type: none"> <li>• To assess, maintain or improve the individual's health; or</li> <li>• To diagnose the individual's illness, injury or disability; or</li> <li>• To treat the individual's illness, injury or disability or suspected illness, injury or disability; or</li> <li>• A disability service, palliative care service or aged care service; or</li> <li>• The dispensing of prescription of a drug or medicinal preparation by a pharmacist; or</li> <li>• A service, a class of service, provided in conjunction with an activity or service referred to in the above dot points that is prescribed as a health service,</li> </ul> <p>But does not include a health service, or a class of health service, that is prescribed as exempt for the purposes of this Act</p>



<b>Sensitive Information</b>	Personal information or an opinion about an individual's; <ul style="list-style-type: none"><li>• Racial or ethnic origin; or</li><li>• Political opinions; or</li><li>• Membership of a political association; or</li><li>• Religious beliefs or affiliations; or</li><li>• Philosophical beliefs; or</li><li>• Membership of a professional trade association; or</li><li>• Membership of a trade union; or</li><li>• Sexual preferences or practices; or</li><li>• Criminal record</li></ul>
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## ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

## REFERENCES

Privacy and Data Protection Act 2014  
Health Records Act 2001  
Freedom of Information Act 1982  
Public Records Act 1973

## APPENDICES

Nil.