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# Health Records Policy

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<b>Position title of responsible business unit Manager:</b>	Corporate Counsel
<b>Approved by:</b>	Council

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## 1. TITLE

Health Records Policy

## 2. OBJECTIVE

- 2.1 To ensure the responsible management of health information collected by Council.
- 2.2 To ensure Council's compliance with the *Health Records Act 2001* (Vic) and the Health Privacy Principles, which are set out in the Act.

## 3. SCOPE

This Policy applies to all employees, contractors, agents, volunteers and customers of Council.

## 4. DEFINITIONS AND ABBREVIATIONS

Term	Meaning	Definition in Act (as of 27 August 2020)
Act	<i>Health Records Act 2001</i> (Vic)	n/a
Health information	has the same meaning as in the Act	<i>health information means—</i> <i>(a) information or an opinion about—</i> <i>(i) the physical, mental or psychological health (at any time) of an individual; or</i> <i>(ii) a disability (at any time) of an individual; or</i> <i>(iii) an individual's expressed wishes about the future provision of health services to him or her; or</i> <i>(iv) a health service provided, or to be provided, to an individual— that is also personal information; or</i> <i>(b) other personal information collected to provide, or in providing, a health service; or</i> <i>(c) 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; or</i> <i>(d) 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 his or her descendants—</i>  <i>but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of this Act generally or for the purposes of specified provisions of this Act;</i>
Health service provider	has the same meaning as in the Act	<i>health service provider means an organisation that provides a health service in Victoria to the extent that it provides such a service but does not include a health service provider, or a class of health service provider, that is prescribed as an exempt health service provider for the purposes of this Act generally or for the purposes of specified provisions of this Act or to the extent that it is prescribed as an exempt health service provider;</i>
Health service	has the same meaning as in the Act	<i>health service means— (a) an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organisation performing it— (i) to assess, maintain or improve the individual's health; or (ii) to diagnose the individual's illness, injury or disability; or (iii) to treat the individual's illness, injury</i>

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		<i>or disability or suspected illness, injury or disability; or (b) a disability service, palliative care service or aged care service; or (c) the dispensing on prescription of a drug or medicinal preparation by a pharmacist registered under the Health Practitioner Regulation National Law; or (cb) the sale or supply of a voluntary assisted dying substance within the meaning of the Voluntary Assisted Dying Act 2017 in accordance with that Act by a pharmacist registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student); or (cc) the supply or administration of a voluntary assisted dying substance within the meaning of the Voluntary Assisted Dying Act 2017 in accordance with that Act by a registered medical practitioner; or (d) a service, or a class of service, provided in conjunction with an activity or service referred to in paragraph (a), (b), (c), (cb) or (cc) that is prescribed as a health service— but does not include a health service, or a class of health service, that is prescribed as an exempt health service for the purposes of this Act generally or for the purposes of specified provisions of this Act or to the extent that it is prescribed as an exempt health service;</i>
Health Privacy Principle (HPP)	has the same meaning as in the Act	<i>Health Privacy Principle means any of the Health Privacy Principles set out in Schedule 1 of the Act</i>

## 5. POLICY

Council will manage health information in accordance with the HPPs, a summary of which is provided below:

### 5.1 HPP 1 – Collection

- 4.1.1 Council must not collect health information about an individual unless the information is necessary for one or more of its functions or activities and at least one of paragraphs 1.1(a) through to (i) of the HPPs applies.
- 4.1.2 Council will only collect health information by lawful and fair means and not in an unreasonably intrusive way. If it is reasonable and practicable to do so, Council must collect health information about an individual only from that individual.
- 4.1.3 At or before the time (or, if that is not practicable, as soon as practicable thereafter) Council collects health information about an individual from the individual, Council must take steps that are reasonable in the circumstances to ensure that the individual is generally aware of—
- (a) the identity of Council and how to contact it; and
  - (b) the fact that he or she is able to gain access to the information; and
  - (c) the purposes for which the information is collected; and
  - (d) to whom (or the types of individuals or organisations to which) Council usually discloses information of that kind; and
  - (e) any law that requires the particular information to be collected; and
  - (f) the main consequences (if any) for the individual if all or part of the information is not provided.

### 5.2 HPP 2 – Use and Disclosure

Council may use or disclose health information about an individual for the primary purpose for which the information was collected in accordance with HPP 1.1. Council must not use or disclose health information about an individual for a purpose (the secondary purpose) other than the primary purpose

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for which the information was collected unless at least one of paragraphs 2.2(a) through to (l) of the HPPs applies.

### **5.3 HPP 3 - Data Quality**

Council must take steps that are reasonable in the circumstances 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.

### **5.4 HPP 4 – Data Security and Retention**

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

### **5.5 HPP 5 – Openness**

Council will provide a copy of this Policy to any individual who requests it.

### **5.6 HPP 6 - Access and Correction**

Council must provide an individual with access to the health information it holds about an individual on request by the individual in accordance with Part 5 of the HPPs unless one of the paragraphs 6.1(a) through to (l) or 6.2 of the HPPs applies. Requests should be directed to Council's Privacy Officer in the first instance.

### **5.7 HPP 7 – Identifiers**

Council may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable Council to carry out any of its functions efficiently.

### **5.8 HPP 8 - Anonymity**

Wherever it is lawful and practicable, individuals must have the option of not identifying themselves when entering transactions with Council.

### **5.9 HPP 9 - Transborder Data Flows**

Council may transfer health information about an individual to someone (other than Council or the individual) who is outside Victoria only if one of the paragraphs 9.1(a) through to (g) of the HPPs applies

### **5.10 HPP10 - Closure of the Practice of a Health Service Provider**

If Council discontinues its health services, it will comply with HPP 9 and its obligations under the *Public Records Act 1973 (Vic)*.

### **5.11 HPP 11 - Making information available to another Health Service Provider**

When Council functions as a health service provider, it will make health information relating to an individual available to another health service provider if requested to do so or if consented to by the individual.

## **6. PRIVACY OF OTHER PERSONAL INFORMATION**

Refer to Council's Privacy Policy for the management of personal information collected by Council that is not health information.

## **7. COMPLAINTS**

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- 7.1** Complaints regarding Council's management of health information will be addressed under Council's Complaint Handling Policy.
- 7.3** Alternatively, a complaint may be made directly to the Health Complaints Commissioner (although the Commissioner may decline to hear a complaint if the complaint has not first been made to Council).

## **8. EXTERNAL CONTRACTORS**

Council may outsource some of its functions to third parties. This may require Council to disclose health information to the contractor or for the contractor to collect, use or disclose certain health information. Council requires that its contractors comply with the Act.

## **9. HUMAN RIGHTS CHARTER COMPATIBILITY**

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

## **10. ASSOCIATED INTERNAL DOCUMENTS**

Privacy Policy  
Complaints Handling Policy

## **11. EXTERNAL REFERENCES/RESOURCES**

*Charter of Human Rights and Responsibilities Act 2006 (Vic)*

*Health Records Act 2001 (Vic)*

*Privacy and Data Protection Act 2014 (Vic)*

*Public Records Act 1973 (Vic)*

*Freedom of Information Act 1982 (Vic)*

Child Information Sharing Scheme: <https://www.vic.gov.au/child-information-sharing-scheme>

Health Complaints Commissioner: <https://hcc.vic.gov.au/contact>

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