

WYNDHAM CITY COUNCIL

PRIVACY POLICY

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Privacy Policy

This policy complies with the Charter of Human Rights legislation

BACKGROUND

The *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic), together are referred to as the Privacy Laws. Victorian Councils are required to comply with the privacy principles set out in the Privacy Laws and adopt policies on the management and handling of personal and health information of individuals.

PURPOSE

This Privacy Policy explains how the Wyndham 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.

DEFINITIONS

Personal information - means information or opinion, whether true or not and whether recorded in material form or not, about a living individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

Sensitive Information means information or opinion about an individual's ethnic origins, religious beliefs, political opinions or association, philosophical beliefs, membership of professional association or trade union, sexual preferences or practices and criminal record.

Health information means information or opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual, but does not include information about an individual who has been deceased for more than 30 years.

For the purposes of this Privacy Policy, personal information includes sensitive information and health information unless the context indicates otherwise.

POLICY STATEMENT

Council is committed to protecting individuals' right to privacy and the responsible and fair handling of personal and health information, consistent with the Privacy Laws. Accordingly, Council will adhere to the Information Privacy and Health Privacy Principles when undertaking its statutory functions and activities, so that the privacy of individuals can be protected.

POLICY INITIATIVES / ACTIONS

Personal Information:

As part of the services provided to the community, the Council may hold personal information that is necessary for its function and activities. For example:

- Name, address, property, bank account and other financial details of residents and ratepayers for undertaking its rating and valuation services, town planning and building statutory functions and other property related services and enforcement activities.
- Name, address and contact details of individuals who contact Council with respect to requests or complaints related to Council services.
- Age, occupation, physical disabilities, health related and other sensitive information of individuals receiving Council services related to Child care, Maternal and Child Health, Pre-school, Youth, Family, Leisure and Aged Care.
- Personal information of employees and contract service providers, relevant to their employment or contract with Council.

In some instances, personal information is contained on a public register (such as for planning and building permits, food premises and animal registration databases).

Collection:

Council will collect personal information lawfully and fairly, in a number of ways, including:

- directly from the individual, where practicable, such as via an application form or correspondence or in response to a request from Council;
- from third parties, such as contracted service providers, health service providers or the individuals authorised representatives or legal advisers;
- from publicly available sources of information; and/or
- when legally required to do so.

So far as it is practicable to do so, Council will collect personal information about an individual directly from that individual. If Council collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is made aware of this. For example, Ambulance Victoria may contact Council in cases of emergency.

Council will not collect sensitive or health related information unless:

- the individual has consented;
- it is required by law;
- it is necessary to prevent or lessen a serious and imminent threat to the life, health or safety of an individual or the public;
- it is necessary for the establishment, exercise or defence of a legal claim;
- it is necessary for research, compilation and analysis of statistics relevant to government funded community programs; or
- it is otherwise permitted by the Privacy Laws.

Council will take reasonable steps to retain confidentiality of any health information given in confidence about an individual, by another person or a health service provider, in relation to the provision of care or health services to the individual.

Upon collection Council will inform the individual:

- why the information is being collected;
- to whom the information will may be disclosed and why;
- any law that requires Council to collect the information;
- the consequences for the individual if all or part of the information is not collected; and
- the fact that he/she is able to gain access to the information

Council will generally only collect personal information about a child under the age of 18 with the consent of the child's parent or guardian.

However in certain circumstances Council may exercise discretion in obtaining parental/guardian consent for the collection of young person's information where parental/guardian involvement may hinder the delivery of services to a young person.

Use and Disclosure:

Council will use personal information for the primary purpose for which it was collected (for example, levying rates, billing, collection of debts, property valuation, town planning and building approvals, provision of family services, community services, animal management services, and waste management services, enforcement activities and asset management). Council may also use personal information for related purposes individuals would reasonably expect, where the individual has consented, for law enforcement purposes and any other circumstances permitted by the Privacy Laws.

The information may be disclosed for these same purposes. For example, the information may be disclosed:

- to Council's contracted service providers who manage the services provided by Council, including, Garbage collection, Meals preparation for Aged Care Services, Management of Leisure Centres, Management of Pre-schools, environmental health inspections and Infrastructure maintenance. Council requires these service providers to comply with the Privacy Laws when doing so;
- to Statutory Bodies (e.g. VicRoads, AGL) for the purposes of targeted consultation processes on major projects that could affect residents;
- to City West Water for the purposes of ensuring that data held by both is maintained as correct and up-to-date as possible;
- in connection with the investigation of complaints or alleged unlawful activity;
- to individuals for the purpose of serving a notice to fence as required by the Fences Act;
- to the Victorian Electoral Commission and Australian Electoral Commission for compilation of Voters Rolls;
- to Statutory Bodies (e.g. Centrelink, Child Support Agency, Department of Health & Human Services, Department of Education & Training, Transport Accident Commission and WorkCover) for purposes required by relevant legislation.
- to Police, Fire Department or SES for emergency or law enforcement purposes;
- where appropriate under another Act, including the *Freedom of Information Act 1982* (Vic);
- in public registers that need to be maintained in accordance with other Acts, as a release of information relevant for the purpose for which the registers exist;
- to an individuals authorised representatives, health service providers or legal advisers;
- to Council's professional advisers, including accountants, auditors, insurers, bankers, valuers, debt collection agents, IT providers and lawyers;
- to organisations assisting Council to perform statistical analyses for improving the services being delivered to the community. However, where practicable and reasonable, steps will be taken to de-identify the information in these circumstances;
- to an immediate family member of the individual, for emergency reasons or if it is necessary to provide the appropriate care or health service to the individual;
- to housing support agencies to assist in the finding of alternative accommodation in cases of emergency;
- in building permits and plans to property owners and the Victorian Building Authority;
- to the Lost Dogs Home, RPSCA and Australian Animal Registry for animal management purposes; and

- to recipients outside Victoria, only if they are governed by substantially similar Privacy Laws or the individual has consented to the transfer or would be likely to give it, if it was practicable to obtain that consent.

Personal information provided as part of a public submission to a Council or Committee Meeting may be included with the published agenda papers and minutes of the meeting which are displayed online and available in hardcopy for inspection.

Council public registers are available for inspection and in some instances are available online (e.g. the planning register).

In the case of health information in particular, Council may disclose health information about someone:

- if Council is providing a health service to them and it is necessary to be able to provide that service,
- where the person is incapable of providing consent and it is not reasonably practicable to obtain the consent of an authorised representative or the person does not have such an authorised person.

Council may also disclose health information about an individual to an immediate family member if Council believes that the disclosure is necessary to provide appropriate health services to care for the individual and:

- the individual is incapable of giving consent; and
- disclosure is not contrary to any wish expressed by the individual before they became incapable of giving consent; and
- the immediate family member who has requested the information is over 18 years of age or has sufficient maturity to receive the information.

Council may also make a disclosure of health information for compassionate reasons if the above mentioned criterion is met.

In some circumstances Council may disclose health information about someone for a secondary purpose, if Council knows, or suspects, that the person is deceased, missing or has been involved in an accident and is therefore incapable of consenting. This disclosure may occur in situations where it is reasonable to identify the person, or to identify and locate an immediate family member so that the police, a coroner, or other prescribed organisations can contact them.

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 provide a copy or written summary, of that health information to that other Health Service Provider as soon as practicable. A fee may be payable in these circumstances.

Quality and Security:

- Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that the information is relevant, and to the extent necessary, accurate, complete and up-to-date for the purpose for which it is to be used.
- Council will endeavour to maintain a secure system for storing personal information and will utilise appropriate technologies, security methods, operational policies and procedures to protect the information from unauthorised access, improper use, alteration, unlawful or accidental destruction and accidental loss.
- All personal and health information will be removed from Council systems, if it is no longer needed for any purpose, except where it needs to be retained in accordance with the *Health Records Act 2001* and the *Public Records Act 1973*.

Access and Correction:

- Individuals may request access to their personal and health information. Such requests are generally managed under the *Freedom of Information Act 1982* (and the *Health Records Act 2001* where relevant). Please contact the Privacy Officer in the first instance to discuss your requirements.
- Council may charge an access fee for recovering the costs of retrieving the required personal information.
- If an individual is able to establish that the personal information is inaccurate, incomplete or out-of-date, the Council will take reasonable steps to correct the information.
- If access or correction of the personal or health information needs to be denied, as required by law or relates to legal proceedings, or the release would pose a serious threat to the life or health of any person, or is classified as confidential information, the Council will give the individual the reasons for that decision as soon as practicable, but no later than 45 days after receiving the request.

- In the event that Council and an individual disagree about the veracity of the personal or health information held by Council, Council will take reasonable steps to record a statement relating to the disputed information, if requested by the individual.

Identifiers and Anonymity:

- Council will not adopt as its own identifier, an identifier that has been assigned by another government agency.
- Council will not use or disclose the identifier assigned to an individual by another government agency, unless the consent of the individual has been obtained or it is permitted by law to do so.
- Whenever it is lawful and practicable, individuals may exercise the option of not identifying themselves when dealing with the Council. However, in some cases, what Council can do in response may be limited. For example, it may not be possible to investigate an anonymous complaint without further information.
- Council maintains a central 'Name and Address Register' (NAR database) and assigns a unique NAR identifier to each individual to ensure that there is only one name record for each individual customer so as to maintain data integrity. This database may be used by Council to contact residents, ratepayers and customers in relation to Council functions and services.
- If an individual's contact details change, they are encouraged to contact Council so that the Database can be updated.
- Council conducts data matching periodically to ensure accurate name records are maintained on individual customers.
- Council also assigns a unique identifier to Volunteers and employees, again to ensure there is no confusion regarding identity.

COMPLAINTS

An individual may lodge a complaint with the Council's Privacy Officer regarding the handling of personal and health information. Council will investigate the complaint as soon as possible and provide a response within 7 working days. Such a response may be of an interim nature if the time is insufficient to give a full reply.

Alternatively, individuals may lodge a complaint with the Commissioner for Privacy and Data Protection with respect to personal information, or the Health Services Commissioner for health information, about a Council act or practice that may be an interference with their privacy. However, the Commissioners may decline to entertain the complaint, if the complainant has not first complained to Council.

FUTURE CHANGES

Council may make amendments to this policy from time to time, to reflect technological changes, legislative amendments and community feedback.

FURTHER INFORMATION

Copies of this policy are readily available from all Council offices. Further information with respect to Councils Privacy Policy and its handling of personal and health information, can be obtained from Council's Privacy Officer.

The Privacy Officer may be contacted as follows:

Direct telephone no.: (03) 8734 5464; or (03) 9742 0743

Council's telephone no.: (03) 9742 0777

Email address: mail@wyndham.vic.gov.au

Mark to the Attention of: The Privacy Officer

Postal address: The Privacy Officer
Wyndham City Council
PO Box 197
WERRIBEE VIC 3030

RELATED DOCUMENTS

Legislative requirements:

- *Local Government Act 1989*
- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*
- *Freedom of Information Act 1982*
- *Public Records Act 1973*