

Health Records Policy

Policy Classification	- Information Technology
Policy N°	- POL/488
Policy Status	- Current
Responsible Service Unit	- Information Technology
Authorised by	- Executive Management Team (EMT)
Date Adopted	- 17 March 2015
Next Review Date	- 17 March 2018

This policy is part of a suite of policies adopted by Council or the Executive Management Team (EMT).

New or replacement policies can be created and developed within Service Units but can only be added to Council's Policy Register by Governance Services following the approval of the policy by Council or the EMT.

Contents

PURPOSE	3
POLICY STATEMENT	3
SCOPE OF POLICY	3
RESPONSIBILITY	4
Privacy Officer.....	4
Freedom of Information Officer	4
External Contractors	4
DEFINITIONS	4
Consent	4
Council	4
Disability	4
Health Information.....	4
Health Service Provider	5
Health Service.....	5
RELATED POLICIES	5
GUIDELINES – The Health Privacy Principles	6
Collection (HPP 1)	6
Use and Disclosure (HPP 2)	7
Data Quality (HPP 3)	7
Data Security and Retention (HPP 4)	7
Openness (HPP 5).....	7
Access and Correction (HPP 6)	7
Identifiers (HPP 7).....	7
Anonymity (HPP 8)	7
Trans-border Data Flows (HPP 9).....	8
Closure of the practice of a health service provider (HPP 10)	8
Making information available to another health service provider (HPP 11)	8
Health Privacy Principles: Interaction with other Legislation	8
RELATED LEGISLATION	8

PURPOSE

To meet Council's obligations under the Health Records Act 2001 with regards to the collection, management, and disclosure of health information.

POLICY STATEMENT

Manningham City Council is committed to complying with the Health Records Act 2001 (Vic) ('the Act') and the Health Privacy Principles contained within the Act.

SCOPE OF POLICY

This policy is applicable to all employees, Councilors, Contractors, and Volunteers of Manningham City Council who collect, handle, or manage, Health Information, regardless of format. It covers health information wherever it is located, even if held separately from a medical file (such as that held on databases), including health information retained as part of Personnel Records.

Note - Unlike the Privacy and Data Protection Act 2014, the Health Records Act covers personal health information whether it is recorded or not. This means a conversation detailing identifiable personal health information that can be overheard by a third party may be an interference with the privacy of an individual.

For purposes of clarification, Health Records kept by Manningham Council fall within 2 categories:

- Health Records for Clients of Services owned and operated by Council, and;
- Health records of Council Employees.

All personal information Council collects about an individual while providing a health service are considered Health Records and therefore are covered by the Health Records Act. This includes contact details (address and phone number), next of kin details, account details such as debts owed or health insurance details, or any other personal information collected by Council in order to provide a health service.

Personal information that identifies the health or disability of an employee included as part of their Personnel Record are also considered Health Records. This includes sick leave, maternity leave, and work cover claims. It does not include recreation leave details, contact details or payroll information. These are covered by the Information Privacy Act (2014). Employees should make themselves aware of the difference when managing these records as the requirements for both are slightly different.

RESPONSIBILITY

Privacy Officer

Council's Information Privacy Officer will have responsibility for ensuring compliance with the Health Records Act. This includes updating, when necessary, Council's Privacy Policy and/or Health Records Policy and liaising with senior management to ensure both policies are adhered to in normal Council practice.

Freedom of Information Officer

The Freedom of Information Officer can take complaints and requests for access and correction. All Health related general enquiries should also be directed to the Freedom of Information Officer.

External Contractors

Council may outsource some of its functions to third parties. This may require the contractor to collect, use, or disclose, certain health information.

It is Council's policy to require all contractors to comply with the Act. Contractors will not be re-engaged for further work if they do not comply.

DEFINITIONS

Consent

Express consent or implied consent.

Council

Same meaning as in the Local Government Act 1989.

Disability

Same meaning as in the Disability Services Act 1991.

Health Information

Under the Health Records Act *health information* is defined as information or an opinion about:

- a) the physical, mental or psychological health of an individual; or a disability of an individual; or
- b) an individual's expressed wishes about the future provision of health services to him or her; or
- c) a health service provided, or to be provided, to an individual that is also personal information; or
- d) other personal information collected to provide, or in providing, a health service; or

- e) 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
- f) 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.

Health Service Provider

The Health Records Act defines a Health Service Provider as:

An organisation that provides a health service in Victoria to the extent that it provides such a service but does not include those providers specifically exempted for the purposes of the Act.

Health Service

The Health Records Act defines a Health Service as:

- 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—
 - to assess, maintain or improve the individual's health; or
 - to diagnose the individual's illness, injury or disability; or
 - to treat the individual's illness, injury 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;
or
- d) a service, or 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

but does not include a health service, or class of health service, that is prescribed as exempt for the purposes of this Act.

RELATED POLICIES

Records Management Policy

Information Privacy Policy

Employee Code of Conduct

Employee Records Policy

GUIDELINES – The Health Privacy Principles

Collection (HPP 1)

Council only collects health information that is necessary for the performance of a function or activity and:

- a) has the individual's consent, or
- b) is required or permitted by law, or
- c) for any other reason permitted in the Act.

Currently Council holds health information such as immunisation records for both children and adults, medical histories and birth notifications. Council also holds health information on employees, such as sick leave forms as part of its personnel records.

Council will only collect health information by lawful and fair means and not in an unreasonably intrusive way. If it is reasonable to do so, Council will only collect health information about an individual from that individual.

Upon collection Council will inform the individual:

- a) how to contact the Council;
- b) the fact that he or she is able to gain access to the information;
- c) the purposes for which the information is collected;
- d) to whom Council usually discloses information of that kind;
- e) any law that requires Council to collect the information;
- f) the main consequences (if any) for the individual if all or part of the information is not provided.

The following notation should be included on all forms used to capture and collect health information:

The health information requested on this form is being collected to enable Council to provide professional health assistance and support services. Council will use this health information for its primary purpose or directly related purposes unless you advise Council otherwise. When necessary for the delivery of services, Council may disclose this information to contracted service providers and other health service organisations.

If this information is not collected Council may not be able to provide the necessary health related assistance. Copies of Council's Information Privacy Policy and Health Records Policy are available on Council's website. You can

gain access to your own health information by contacting Council's Freedom of Information Officer.

Use and Disclosure (HPP 2)

Council only uses and discloses health information for the primary purpose for which it was collected or a directly related secondary purpose the person would reasonably expect. In any other circumstance Council will contact the individual in order to obtain consent (unless the use or disclosure is required by law or permitted by the Act).

Data Quality (HPP 3)

Council will take reasonable steps to ensure the health information it holds is accurate, complete, up-to-date and relevant to the functions it performs.

Data Security and Retention (HPP 4)

Council will take steps to safeguard the health information it holds against misuse, loss, unauthorised access and modification. Where lawful Council will take reasonable steps to destroy or permanently de-identify health information if it is no longer needed, subject to the standards and authorities issued by Public Records Office Victoria (PROV).

Openness (HPP 5)

Council will provide a copy of this policy to any person who requests it.

Access and Correction (HPP 6)

Individuals have a right to seek access and make corrections to health information held by Council about themselves. All requests for access and correction should be lodged in writing as a Freedom of Information request (Pursuant to Section 16 of the Health Records Act 2001 (Vic)) and addressed to:

**Freedom of Information Officer
Manningham City Council
P O Box 1
DONCASTER VIC 3108**

Identifiers (HPP 7)

Council will only assign a unique identifier to a person's health information if the assignment is reasonably necessary to carry out Council's functions efficiently.

Anonymity (HPP 8)

Where lawful and practicable, Council will provide a person with the option of not identifying themselves when supplying information or entering into transactions with

it. However, anonymity may limit or hinder Council's ability to process an application, request, complaint or service. Therefore, Council reserves the right to take no action in any matter, within reason, if the relevant personal or health information is not submitted to Council.

Trans-border Data Flows (HPP 9)

Council will only transfer health information outside Victoria if the organisation receiving it is subject to laws substantially similar to the HPPs, has consent from the individual to whom the information pertains, or if the transfer conforms with the reasons and conditions outlined in the Act.

Closure of the practice of a health service provider (HPP 10)

If Council discontinues its health services it will give notice of the closure to current service users directly by publishing a notice in a newspaper circulating in the municipality.

Whether Council elects to transfer or retain health information collected as part of its health service will depend on Council's obligations under the Public Records Act 1973 (Vic).

Making information available to another health service provider (HPP 11)

When Council acts as a 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.

Health Privacy Principles: Interaction with other Legislation

Specific statutory provisions in other legislation override the general standards in the Health Records Act to the extent of the inconsistency. If specific legislation exists dealing with one or more aspects of health information management then it must be complied with, and not the more general corresponding principle under the Health Records Act.

RELATED LEGISLATION

Disability Services Act 1991

Health Records Act 2001

Local Government Act 1989

Privacy and Data Protection Act 2014