

## PRIVACY POLICY

**Last reviewed date:** 30 July 2015

**Next review date:** 19 May 2016

**Responsible Person:** Senior Conciliation  
Officer

**Category:** Compliance

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### PURPOSE

The *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)* (together, the 'privacy laws') govern the collection, use, disclosure and handling of personal, sensitive and health information.

Both the Service and the Conciliation Officers are subject to these privacy laws.

This Privacy Policy sets out our policies on the management of personal information and health information. It has been developed to assist people who deal with us to understand what the privacy laws require of us and the steps we have taken to comply with them.

## **POLICY**

Three different types of information are protected by the privacy laws:

- **Personal information** means ‘information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion’.
- **Sensitive information** is a type of personal information. It includes information about a person’s racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association or trade union, sexual preferences or practices and criminal record.
- **Health information** is a type of personal information that relates to the health or disability of an **individual**, the provision of health services to the individual or the individual’s expressed wishes about the provision of health services. It also includes information collected to provide or in providing, a health service or in connection with organ donation.

Information Privacy Principles (IPPs) and Health Privacy Principles (HPPs) contained in the privacy laws apply to:

- our collection of personal and health information
- our use and disclosure of the information
- the quality and security of the information we hold
- the information we give to people about our collection and handling of personal and health information
- an individual’s right to access the information we hold about them our use or identifiers assigned by organisations to individuals
- our transfer of information to organisations outside Victoria including the transfer of health records.

### **Other laws that apply to our handling of personal information**

A number of other Acts affect the way we collect, use and handle personal information.

- The WIRC Act allows Conciliation Officers to request parties participating in conciliation to produce documents or provide information that may be relevant to the resolution of a dispute. Conciliation Officers may make any documents or information available to any other party. In fact, unless a Conciliation Officer considers it would aggravate a dispute, or involve a breach of confidence, all medical and circumstantial information provided to a Conciliation Officer shall be

made available to the persons in order that they may understand each other's position. That Act also generally prohibits Conciliation Officers and staff from using or disclosing information for purposes not connected with official duties or functions.

- The *Freedom of Information Act 1982* creates a general right of access to information held by the Service. That right is subject to a number of limitations, including where disclosure would involve the unreasonable disclosure of information relating to the personal affairs of another person. The Act also gives individuals the right to have information held about them corrected.

### **How we apply the privacy laws**

This section sets out in a general way the requirements of the privacy laws and how we apply them. The following section sets out how those laws affect our handling of personal and health information when we perform different functions.

### **Collection**

We only collect personal and health information that is necessary for one or more of our functions. We generally only collect sensitive or health information with the consent of the individual, or where the collection is otherwise authorised by law. We try to ensure that information is collected lawfully, fairly and not in an unreasonably intrusive way. Where reasonable and practicable, we collect information directly from the individual concerned.

We also try to ensure that the individual to whom the information relates is made aware of our identity and how to contact us, the fact that the individual can gain access to his or her information, the purpose for which the information is collected, the organisations or types of organisations to which the information may be disclosed, any law that requires the information to be collected, and the main consequences (if any) for the individual if all, or part, of the information is not provided. Where personal information is not collected directly from the individual, we try to ensure that the information is collected in accordance with the privacy laws, and that the individual is made aware of the collection, and of the matters set out in the previous paragraph.

### **Use and disclosure**

We use and disclose personal or health information for the purpose for which it has been collected. We may also use and disclose personal or health information for other secondary purposes where permitted by law. For example, we may use or disclose such information:

- for a purpose that is related to the purpose of collection (or in the case of sensitive and health information, directly related) and the individual would reasonably expect the information to be used or disclosed for that purpose; or
- where this is authorised by, or under, law.

## **Data Quality**

We are required to take reasonable measures to ensure that personal and health information we hold is accurate, complete and up to date, and that it is protected from misuse, loss and unauthorised access. Personal and health information we collect is held by us in hard copy and electronic form.

Generally, information is destroyed or permanently de-identified when it is no longer required. However, most information held by the Service is subject to the *Public Records Act 1973* and so must be disposed of in accordance with that Act and the requirements of the Public Record Office Victoria.

## **Openness**

We do everything we reasonably can to make people aware of the sort of information we hold and the purposes for which we collect it, and of how we collect, hold, use and disclose that information. This Privacy Policy gives effect to that commitment. More detailed information can be obtained from the Senior Conciliation Officer at the address set out at the end of this Privacy Policy.

## **Access**

Requests for access to and/or correction of documents concerning personal and health information held by the Service will be handled in accordance with law. Such requests for access and correction of personal and health information can be made informally. You may be asked to submit your requests in writing to the Senior Conciliation Officer at the contact address set out at the end of this Privacy Policy.

We are not required to give access to information in certain circumstances, such as where:

- Providing access would pose a serious threat to the life and health of any individual
- Providing access would have an unreasonable impact on the privacy of other individuals
- The information relates to existing legal proceedings between the Service and the individual
- Providing access would be unlawful
- Denying access is either required or authorised by, or under, law
- Providing access would prejudice effective law enforcement.

If we refuse to provide access to, or to correct, information we hold, we will give you reasons.

## **Security**

We require our staff, Conciliation Officers and contractors to observe appropriate security at all times when they are handling personal information. What are reasonable security measures varies according to the circumstances. All information is stored in secure premises. Files are stored in secured areas and in cabinets when not in use. Our security measures also apply to information stored and handled electronically. All our databases are password protected. Persons are only permitted access to databases to the extent necessary for them to perform their functions and duties. We conduct periodic reviews of our physical and electronic security arrangements to ensure that these requirements are being complied with.

## **Identifiers**

We may assign a unique identifier to an individual if we believe it is necessary to enable us to carry out our functions efficiently. We will not use or disclose an identifier we assign unless it is necessary for us to fulfil our functions or our obligations to another organisation or where the disclosure is otherwise required or authorised by law.

## **Anonymity**

We are required to give individuals the opportunity to deal with us anonymously where it is lawful and practicable. However, in most circumstances, it is necessary for us to ascertain the identity of individuals with whom we deal. We only collect personal or health information that we believe is necessary for us to discharge our functions and responsibilities.

## **Transborder data flows**

We may disclose information about an individual outside Victoria where one of the parties to a dispute is outside Victoria or when necessary to carry out our functions. We will only disclose personal information outside Victoria where there is consent to do so or that disclosure is authorised by law and where we reasonably believe that the personal information we send will be handled in a way that is consistent with the IPP's.

## **Collection and use of information in particular situations**

### Requesting and conducting conciliation

We collect personal and health information from people who request conciliation, other parties to the conciliation and any other person whose information is necessary to conduct the conciliation.

We collect personal and health information that a person provides on the form that he or she completes to request that conciliation be conducted. This information is

used for the purposes of processing and assessing the request for conciliation and conducting the conciliation. A copy of the request is also provided to the employer and the WorkSafe Agent or Self-Insurer.

In the course of processing and managing the application for conciliation and conducting the conciliation, we may also collect personal and health information from the other parties to the conciliation and any other person whose information is necessary to conduct the conciliation. This could include people such as employers, co-workers, medical and health services providers, union representatives and family members. We will generally do this in writing, or face to face during the conduct of the conciliation.

For example, in relation to medical records:

- for conciliation involving a WorkSafe Agent, the person requesting conciliation will need to send a 'Request for Medical Report Form' to the person's treating health practitioner. This form gives that health practitioner permission to provide a medical report to the Service and WorkSafe Agent; and
- for conciliation involving Self-Insurers, the person requesting conciliation will need to complete a 'Health Practitioners Identification Form', listing all relevant treating health practitioners. The Conciliation Officer will then decide which of the health practitioners are to provide medical reports.

When a person first request a conciliation, we give them a privacy or collection statement identifying us and setting out the purpose for which personal and health information is collected, the types of organisations to which such information would usually be disclosed and the person's rights of access to that information.

The information collected may also be used for other purposes related to the conciliation process, for example, evaluating our conciliation processes to better manage them in the future.

Personal and health information in relation to a conciliation may be disclosed to a number of different people and organisations, including a union, legal practitioner or family member (if nominated by an individual to assist them with the conciliation), other parties to the conciliation, courts or tribunals where they are authorised to obtain it, and other persons authorised by the individual or by law to receive it..

Personal or health information discussed during conciliation is subject to the confidentiality provisions in the WIRC Act.

### Employee information

We collect and hold personal and health information about Conciliation Officers, temporary and permanent employees and applicants for employment.

We do so for the purposes of processing and assessing applications for employment. We also do so for a range of employment related purposes, including training, discipline, performance assessment, promotion, remuneration (including superannuation), employment related travel, resignation and retirement. We may

also use and disclose personal information in a dispute that arises in relation to a person's employment or engagement. We only do this with the consent of the person concerned, or if we are permitted, required or authorised to do so by or under law.

We generally collect personal and health information directly from the individual, although some information may be collected, with the consent of the individual, from third parties such as referees, and from police records. Information is usually collected from applications for employment and in the course of our induction program. Information may also be collected in the course of performance assessment, discipline, and promotion processes. We may also collect personal information in the course of monitoring e-mail and internet use.

We may disclose such information to superannuation, taxation and insurance related organisations, and to organisations that provide services to the person or to us in relation to the employment or engagement. We only do this with the consent of the person concerned, or if we are otherwise required or authorised to do so by law. In the event of a dispute in relation to a person's employment or engagement, we may disclose personal and health information to legal representatives.

If an applicant for employment is not appointed to a position with us, we may retain his or her information for up to one year and use it, where appropriate, to consider the person for other positions. If the person is employed or engaged, the information will be retained as part of their employment record with us for the duration of their employment or engagement and for at least seven years thereafter.

### **Complaints about privacy**

If you have a complaint about an infringement of privacy or about our treatment of your personal information or health information you should contact:

The Senior Conciliation Officer  
Accident Compensation Conciliation Service  
Level 9, 460 Lonsdale Street, Melbourne 3000  
GPO Box 251, Melbourne 3001  
Telephone: (03) 9940 1111  
Facsimile: (03) 9940 1144  
Email: [info@conciliation.vic.gov.au](mailto:info@conciliation.vic.gov.au)

You can also make a complaint to the Privacy and Data Protection Commissioner (if the complaint relates to our treatment of personal or sensitive information) or to the Health Services Commissioner (if it relates to our treatment of health information).

The Privacy and Data Protection Commissioner  
GPO Box 5057, Melbourne 3001  
Level 6, 121 Exhibition Street, Melbourne 3000  
Telephone: 1300 666 444 or (03) 8684 1660

The Health Services Commissioner  
Level 26, 570 Bourke Street, Melbourne 3000  
Telephone: 1300 582 113

## AUTHORISATION

This policy was approved on 7 August 2015 by Patrick Holt, Senior Conciliation Officer.



### Amendment history

Date	Person	Details of change
19 July 2015	Privacy Committee	Complete policy update – all sections
November 2012	Privacy Committee	Complete policy update – all sections