



# Privacy Policy

**Policy Number** VAHS 2.11

**Version** 2

**Drafted by** Head of HR

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**Responsible Position** Head of HR

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## PURPOSE AND SCOPE

To inform all Staff, Directors and Community Members about the VAHS Privacy Policy and how the VAHS treats private and confidential information.

This policy provides the basis for the establishment of practices that VAHS uses to collect, use, store, manage and where appropriate dispose of information about individuals.

## RELEVANT LEGISLATION

- ▶ Privacy Act 1988 (Cth)
- ▶ Health Records Act 2001 (Vic)
- ▶ Privacy and Data Protection Act 2014 (Vic)

## DEFINITIONS

- ▶ **Access** is defined as the provision of a copy of the information or the provision of supervised access to the information.
- ▶ **Child** means a person under the age of 18 years.
- ▶ **Consent** means express consent or implied consent.
- ▶ **Health Information** (as defined in the Health Records Act 2001) means:
  - (a) any information or an opinion about –
    - (i) the physical, mental or psychological health (at any time) of an individual; or
    - (ii) a disability (at any time) of an individual; or
    - (iii) an individual's expressed wishes about the future provision of health services to him or her; or
    - (iv) a health service provided, or to be provided, to an individual—  
that is also personal information; or
  - (b) other personal information collected to provide, or in providing, a health service; or
  - (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
  - (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 descendants—  
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;
- ▶ **Information** is a reference to both health information and personal information.
- ▶ **Information Privacy Principles** means any of the Information Privacy Principles set out in the Information Privacy Act 2000.
- ▶ **Parent in relation to a child** includes:
  - a) A step-parent
  - b) An adoptive parent
  - c) A foster parent
  - d) A guardian
  - e) A person who has custody or daily care and control of the child

▶ **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.”

The sort of personal information VAHS collects includes, names, date of birth, addresses or gender and contact details.

▶ **Sensitive Information** means information or an opinion about an individual’s:

- a) Racial or ethnic origin, or
- b) Political Opinions, or
- c) Membership of a political association
- d) Religious beliefs or affiliations, or
- e) Philosophical beliefs, or
- f) Membership of a professional or trade association, or
- g) Membership of a trade union, or
- h) Sexual preferences or practices, or
- i) Criminal record.

▶ **Unique identifiers** means an identifier (usually a number) assigned to an individual uniquely to identify that individual for the purposes of the operations of the organisation but does not include an identifier that consists only of the individual’s name

## **POLICY OBJECTIVES**

The VAHS Privacy Policy has the following objectives:

1. To articulate guidelines for the maintenance of individual’s privacy.
2. To ensure that Board members and staff behave in a professional and appropriate manner.
3. To ensure that information a Board or staff member learns about a client cannot be disclosed without the client’s permission.

## PRINCIPLES

The following Principles underpin the VAHS Privacy Policy:

1. Privacy of information is mandated by common law, formal statute, explicit agreement or convention.
2. All Board and staff members have a responsibility to act in a professional manner and in accordance with the relevant Code of Conduct.
3. All Board and staff members are required to familiarise themselves with VAHS' policies.
4. Compliance with the regulations, standards, codes of practice and provisions of applicable local, state and national legislative requirements.
5. Each Board and staff member, on commencement of tenure/employment shall be made aware of confidentiality requirements for information that they may have access to in the course of their tenure / employment.
6. Information Technology (IT) security, including confidentiality, privacy and procedures relating to system access, shall be incorporated into formal staff induction procedures for all new staff and be conveyed to existing staff on a regular basis.
7. Access to all systems must be monitored on a continuing basis and audit trails maintained to ensure privacy is protected.
8. The VAHS collects personal information in a lawful, fair and un-intrusive manner
9. When the VAHS collects information that is culturally sensitive, it will only do so on a voluntary basis, except where it is essential to provide you with a health service. The VAHS will endeavour to ensure you fully understand the necessity for which culturally sensitive information is collected.
10. The VAHS will, where practicable, collect personal information with the knowledge and consent of the person to whom the data relates.
11. Clients can access their client record file through legislation enacted by the current Freedom of Information and Health Records Acts applicable in Victoria.
12. Clients can expect that all communications and records will be treated confidentially. When confidentiality is not possible, the client has a right to know why and to whom the information must be given.
13. Clients are entitled to know how personal information collected is to be used.
14. The VAHS will not use information for purposes other than those for which it was collected unless prior consent has been obtained.
15. The VAHS will not disclose information to third parties without consent from the individual to whom it pertains, unless required to do so by law or as otherwise allowed under the relevant Acts.
16. Disclosure of information will occur only where VAHS is under legal obligation to do so and with expressed permission and consent from the client.
17. The VAHS will use every effort to ensure the personal information is accurate, complete and up-to-date.
18. In order to protect information from misuse, loss or unauthorised access, modification or disclosure, VAHS will provide secure information storage systems and procedures for the management of both physical and electronic information.
19. Information will be disposed of in accordance with approved disposal schedules when it is no longer necessary to store the information.

## **POLICY GUIDELINES AND PROCEDURES**

### **1. Collection**

- a) VAHS will only collect health and personal information that is necessary in providing quality care and managing the organisation.
- b) Information will only be collected by lawful and fair means and not in an unreasonably intrusive way.
- c) Patients, residents and other individuals will, at or before the time of collecting the information be informed of:
  - i) The purpose for which the information is being collected.
  - ii) The fact that he or she is able to gain access to the information.
  - iii) To whom the organisation usually discloses information of that kind.
  - iv) Any law that requires the particular information to be collected.
  - v) The main consequences (if any) for the individual if all or part of the information is not provided.
  - vi) Where possible, the VAHS will only collect information from the subject of the information.

### **2. Use and Disclosure**

The VAHS will only use and disclose information for a secondary purpose if:

- a) The secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use or disclose the information for the secondary purpose;
- b) The patient, resident or other individual has consented to the use or disclosure;
- c) The use or disclosure is required, authorised or permitted, whether expressly or implied by or under law; and
- d) In those situations described in HPP 2 and NPP 2.

### **3. Data Quality**

The VAHS will take all reasonable steps to ensure that the information it collects, or uses or discloses is accurate, complete and up-to-date and relevant to its functions or activities.

### **4. Data Security and Data Retention**

- a) VAHS will take all reasonable steps to protect information it holds from misuse, loss, unauthorised access, modification or disclosure.
- b) VAHS will take all reasonable steps to destroy or permanently remove your identity from information that is no longer needed for any purpose for which the information may be used or disclosed.

### **5. Openness**

- a) VAHS will have clearly expressed policies and procedures on its management of personal and health information including steps that an individual must take in order to obtain access to their information.
- b) VAHS will, on request from an individual, advise whether it holds information relating to them and how they can gain access.

### **6. Access and Correction**

- a) Where VAHS holds information about an individual, it will provide the individual with access to the information on request, in a form or manner suitable to the individual's reasonable needs except in those situations stipulated in HPP 6.1 and NPP 6.1.
- b) VAHS may charge for providing access to information, however the charges will not be excessive and will not apply to lodging a request for access.
- c) If an individual is able to establish that the information that VAHS holds is inaccurate, incomplete, misleading or not up to date. VAHS will take reasonable steps to correct the information. Information will not be deleted otherwise than in accordance with HPP 4.2.
- d) VAHS will provide reasons for denial of access or correction.

## 7. Identifiers

- a) VAHS will not adopt as its own identifier an identifier that has been assigned by a government agency
- b) VAHS will not use or disclose an identifier assigned to an individual by a government agency except in those situations described in HPP 7.3 and 7.4.

## 8. Anonymity

Whenever it is lawful and practicable, individuals will have the option of not identifying themselves when dealing with VAHS.

## 9. Transborder Data Flows

- a) Unless compelled by law VAHS will not transfer personal information outside the State, unless it is reasonable to believe that the recipient is subject to a law or binding obligation which imposes similar restrictions on the use of that information.
- b) The VAHS will comply with guidelines issued by the Office of the Victorian Information Commissioner in relation to Transborder Data flows.

## 10. Sensitive Information

- 1) VAHS may, from time to time, collect sensitive information and / or health information about persons when required under law, or for government funded targeted purposes.
- 2) Where practicable, prior consent will be obtained from the individual for the collection of such information.
- 3) Where the information relates to children, VAHS will seek consent from a parent or appropriate carer.

## 11. Alleged Breaches

- 1) Alleged breaches of this policy will be investigated under the supervision of the Chief Executive Officer of VAHS.
- 2) Incidences of staff member misconduct in relation to breaches of this policy will be managed through the discipline process as outlined in the staff member's contract.
- 3) The State Privacy Commissioner may also investigate alleged breaches of the Information Privacy Act 2000 and refer the complaint to the State Civil and Administrative Tribunal.

## 12. Creating Awareness about and Promoting the VAHS Privacy Policy

- a) The VAHS will produce and display a Privacy Policy brochure at all of its sites.
- b) The VAHS will display information about its Privacy Policy on its website as well as post a copy of its Privacy Policy brochure and other relevant information on its website.

## 13. External Agencies for Complaints

- 1) When a client has concerns about their privacy, staff will encourage and support them to contact the VAHS in the first instance.
- 2) If the client still feels that the VAHS has not sufficiently dealt with their privacy concerns, they should be advised to contact:

### Health Complaints Commissioner

Phone	1300 582 113	or write to	Health Complaints Commissioner
Email	<a href="mailto:hcc@hcc.vic.gov.au">hcc@hcc.vic.gov.au</a>		Level 26, 570 Bourke Street
Website	<a href="https://hcc.vic.gov.au/">https://hcc.vic.gov.au/</a>		MELBOURNE VIC 3000

### Office of the Australian Information Commissioner

Phone	1300 363 992	or write to	Federal Privacy Commissioner
Fax	02) 9284 9666		GPO Box 5218
Email	<a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>		SYDNEY NSW 2001
Website	<a href="https://www.oaic.gov.au/">https://www.oaic.gov.au/</a>		

## **ROLES AND RESPONSIBILITIES**

### **1. Board of Management**

- a) The Board has the ultimate decision making authority for the VAHS and they delegate the decision-making power for the day to day running of VAHS to the CEO in line with the CEO Position Description.
- b) Set a clear Privacy Policy.

### **2. Chief Executive Officer**

- a) The CEO is responsible for overseeing privacy procedures across the organisation.
- b) Enact the Privacy Policy.
- c) Ensure VAHS Privacy Policy is communicated to all staff.
- d) Allocate responsibility for privacy management and delegation of authority.
- e) Allocate sufficient resources for secure management of personal information.

### **3. Staff**

- a) It is the responsibility of each individual to ensure that VAHS Privacy Policy is clearly understood and followed.
- b) Comply with the Code of Ethics and Code of Conduct.
- c) Maintain confidentiality and privacy for individuals.

## **AUDIT RECORDS**

- ▶ OVIC Protective Data Security Plan
- ▶ OVIC Incident Notification Form
- ▶ VAHS Complaints Forms

## **REVIEW**

The policy will be reviewed after three years in operation.