



## Purpose

Forensicare (**Forensicare, we, us**) is a Victorian Government agency established under the Victorian *Mental Health Act 2014*. We provide state-wide forensic mental health services to people with a serious mental illness in the criminal justice system; to those who are at risk of offending who pose a risk to themselves or others, and to people referred from the general mental health system for specialist advice, support or treatment. We provide these services primarily through:

- the operation of Thomas Embling Hospital;
- the provision of specialist forensic mental health services at various prison sites under contract with the Victorian state government or private operators; and
- our community forensic mental health service, which provides services aimed at assessing, treating and managing high-risk individuals in order to improve results for those individuals and contribute to increased community safety (**our services**).

Forensicare values the privacy of every individual whose personal, including health, information we collect and hold. We are committed to ensuring the confidentiality and protection of the information we collect and complying with our privacy obligations under the Victorian *Privacy and Data Protection Act 2014* (including the Victorian Protective Data Security Standards), the *Health Records Act 2001* and the Mental Health Act.

We are also subject to the *Privacy Act 1988* (Cth) to the extent we are a tax file number recipient. In addition, Forensicare is a designated information sharing entity under both the Family Violence Information Sharing Scheme (established under new Part 5A of the *Family Violence Protection Act 2008*) and the Child Information Sharing Scheme (established under Part 6A of the *Child Wellbeing and Safety Act 2005*).

This Privacy Policy may be reviewed and amended from time to time to reflect changes to our practices, policies, systems and legal obligations. Any changes to this Privacy Policy will take effect from the date of posting on our website.

## Scope

This policy applies to all consumers of our services (including consumers who are receiving or have received services provided at Thomas Embling Hospital, through our Community Forensic Mental Health Service or in the prison setting), carers, guardians, family members, all of our past and present employees, board or former board members, job applicants and employees of our service providers.

This policy explains the types of personal information we collect and hold and how we manage your personal information, including your health information.

## Definitions

Health Information	A type of sensitive information that is personal information and that is also information or an opinion about the physical, mental or psychological health of an individual, a disability of an individual, an individual's expressed wishes for the future provision of their healthcare, or a health service provided to an individual. Our handling of your health information is regulated by the
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	Health Records Act and the Mental Health Act (which apply to health information for 30 years after the individual has died).
Health Records Act	<i>Health Records Act 2001</i>
Health Services Act	<i>Health Services Act 1988</i>
Health service entity	An entity within the meaning of section 134V of the Health Services Act
Family Violence Information Sharing Scheme	Part 5A of the <i>Family Violence Protection Act 2008</i> establishes the Family Violence Information Sharing Scheme, which authorises the sharing of information to assess or manage risk of family violence.
Child Information Sharing Scheme	The Child Information Sharing Scheme, established under Part 6A of the <i>Child Wellbeing and Safety Act 2005</i> , which enables prescribed organisations and services to share information to promote the wellbeing and safety of children
Mental Health Act	<i>Mental Health Act 2014</i>
PDPA	<i>Privacy and Data Protection Act 2014</i>
Personal Information	Information or opinion, that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained by us, from the information or opinion, but does not include health information, which is covered by the Health Records Act and the Mental Health Act
Sensitive Information	A subset of personal information that includes information about your racial or ethnic origin, political opinions, membership of political, professional or trade associations or trade unions, religious beliefs, sexual preferences or practices and criminal record.
Quality and safety purpose	A quality and safety purpose authorised under Part 6B of the Health Services Act.

## Policy

### Types of information we collect

The types of information we collect about you depends on who you are and your dealings with us. We collect personal information, including health and other sensitive information.

Our handling of your personal, including sensitive, information, save for health information, is regulated by the PDPA (which applies to all personal information of any living individuals).

Our handling of your health information is regulated by the Health Records Act and the Mental Health Act (which apply to health information for 30 years after the individual has died).

The types of personal and health information we usually collect include:

- your name, contact details (including phone number, postal and email address), gender and date of birth;
- information about the treatment and services that we provide to you;
- information about the treatment and services that have been provided to you by another service;
- sensitive information about consumers of our services and employees, including health

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- information, criminal records and court orders;
- information about your personal circumstances;
- records of our communications with you, including any complaints, requests or queries you make;
- the content of any electronic forms you submit via the website;
- information gathered in feedback that you provide or surveys you complete;
- biometric information (from iris scanning or fingerprinting) and photographs of our employees and visitors to Thomas Embling Hospital;
- information required to manage our employment relationship with employees, including bank account details, tax file numbers, superannuation details, qualifications and employment history; and
- images via closed circuit television (**CCTV**), however Forensicare will not use CCTV or any other surveillance devices in workplace toilets, changerooms or lactation rooms.

We collect this information from:

- you directly in your dealings with us;
- family members, guardians and carers;
- your nominated employment referees;
- your health care and other service providers;
- past treatment providers;
- Victorian government agencies, authorities, state departments and ministers (including the Department of Health and Human Services, the Department of Justice and Community Safety, Corrections Victoria and Justice Health, Safer Care Victoria and the Victorian Agency for Health Information);
- Victoria Police;
- our contracted service providers; and
- Victorian courts, Community Corrections Victoria, the Adult Parole Board, Post Sentence Authority, the Multi-Agency Panel and the Office of Public Prosecutions.

## Informed consent of consumers

If we are providing our services to you as a consumer, we will obtain your informed consent to collect and handle your personal, including health, and other sensitive information.

Providing your informed consent means you have the capacity to understand what you are consenting to and why. Where we seek your consent to disclose your personal information to a third person, you must also have the capacity to understand to whom we are disclosing your information. We will give you adequate information about the circumstances in which we are seeking your consent and give you the opportunity to ask questions and allow you adequate time to consider your decision.

Consent must be given freely and you can withdraw it at any time by informing us in writing.

If you, as a consumer, do not have the capacity to consent to the collection or disclosure of your health information, we will only collect and disclose your health information to the extent permitted under the Health Records Act and Mental Health Act.

## Information you provide us about others

If you provide Forensicare with personal and health information about other individuals, we rely on

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you to make them aware:

- that the information will (or may) be provided to us; and
- of the matters set out in this Privacy Policy.

## Purposes for which we collect, use and disclose your personal and health information

The purposes for which we collect your personal information and health information will depend on who you are and your dealings with us. We collect personal information and health information to:

- provide our services;
- fulfil our clinical and legal obligations, as a forensic mental health service provider, to consumers and their carers, guardians family members, including in undertaking clinical assessments (including risk), providing court reports and to enable the ongoing support and care of consumers;
- perform our business functions as an employer;
- communicate with you and respond to your feedback, queries and requests for assistance;
- undertake research, policy discussion and development, including as authorised by the *Victorian Data Sharing Act 2017*;
- personalise, customise and improve your experience with our website (see [website collection notice](#) for further information);
- manage and conduct our business including administration, funding, planning and quality improvement, as well as ensuring the security of consumers, staff, contractors, visitors and volunteers (including via the use of CCTV images where necessary in order to ascertain whether unsafe or unlawful activity is taking place or may have taken place);
- undertake research to improve health outcomes for consumers (any information about consumers will be de-identified in any published research reports);
- recruit and employ staff, contractors, volunteers and students undertaking clinical placements
- comply with our legal obligations;
- verify the identity and manage access and security of visitors to our premises including the Thomas Embling Hospital;
- to assess or manage risk of family violence;
- for a quality and safety purpose; and
- otherwise meet the purposes for which we collected the information.

We will not use or disclose your personal information or health information for any purpose other than the purpose for which it was collected, or for a related (or, in the case of health or any other sensitive information, directly related) purpose, unless you have consented to that other purpose that you would reasonably expect (for example, from our dealings with you, or as a result of your actions) or we are permitted or required to do so by law, or a court or tribunal order. For example, Forensicare:

- may disclose information if it reasonably considers the disclosure is necessary to lessen a serious threat to you or others;
- is an information sharing entity under the Family Violence Information Sharing Scheme and the Child Information Sharing Scheme and may be required to disclose personal information and health information in some circumstances under those schemes;
- is a health service entity under the Health Services Act and may disclose information for a quality and safety purpose to Safer Care Victoria or the Victorian Agency for Health Information;
- is required or authorised by law to disclose personal information and health information

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(including CCTV images) to relevant authorities in some circumstances. Including, in accordance with the *Fair Work Act 2009* (Cth), *Occupational Health and Safety Act 2004*, *Children, Youth and Families Act 2005* (Vic), the *Crimes Act 1958* (Vic), the *Victorian Data Sharing Act 2017*, the *Serious Offenders Act 2018*, the *Corrections Act 1986*, the Health Services Act, the *Health (Infectious Diseases) Regulations 2001* (Vic) and the Mental Health Act.

From time to time, Forensicare is involved in research to improve health outcomes for mental health consumers in a forensic environment. Some of the health information we collect may also be used for research, which will help us provide better interventions and health care overall. Research undertaken at Forensicare is required to meet ethical standards set by the relevant recognised Ethics Committee, which include procedures and guidelines to de-identify health information and protect your privacy. De-identification involves removing all identifying data items for example, name and address.

## Who we disclose personal information and health information to

In order to provide our services and otherwise meet the purpose of collecting your personal and health information and in particular to comply with our legal obligations, support the ongoing care and rehabilitation of consumers, provide our services, to comply with court warrants, subpoenas and our mandatory reporting obligations, we may be required to disclose it to:

- Victorian Government agencies, Ministers and State Departments;
- other State institutions and authorities, if required by law or other regulation or under our contracts, such as with courts and tribunals (including the Mental Health Tribunal), the Department of Health and Human Services, Safer Care Victoria or the Victorian Agency for Health Information, the Department of Justice and Community Safety, Justice Health, the Adult Parole Board, the Post Sentence Authority, the Office of Public Prosecutions, the Forensic Leave Panel and Victoria Police;
- Commonwealth agencies and Departments, if required by law or other regulation, such as the Australian Taxation Office and Centrelink;
- Australian superannuation funds, if authorised by law
- operators of prisons, whether the Victorian state government or private operators;
- correctional staff at prisons and community corrections officers;
- other health and support service providers;
- our service providers;
- insurance companies;
- legal representatives of consumers;
- Child Protection;
- treating health care providers; and
- family members, friends, carers and guardians.

We may also provide non-identifying information about our service to the Department of Health and Human Services to help them with service planning and improvement.

We also submit information to the state-wide mental health database (except where we are providing health services to consumers in the prison setting). This database is only accessible by public mental health service staff. The information provided to the database includes personal details, including contact information, Medicare number and other details that you provide on your registration form. Limited health information is provided to the database, including a diagnosis (if applicable), referral source and reason for discharge.

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Tax file numbers are only collected where authorised by law and for the purpose of performing our business functions as an employer. Confidentiality of tax file numbers is protected by the *Privacy Act 1988* (Cth) and the *Privacy (Tax File Number) Rule 2015* (Cth), which provide that a tax file number may only be disclosed, where authorised by law, to the Australian Taxation Office or an Australian superannuation fund. An individual is not legally obliged to quote their tax file number, however there may be financial consequences for an individual who chooses not to quote their tax file number.

In all circumstances where Forensicare releases personal information or health information to outside people or agencies, these disclosures are only made by authorised staff within Forensicare.

## Data security

Forensicare is subject to the Victorian Protective Data Security Standards. The Standards establish mandatory requirements to protect public sector information across all security areas including governance, information, personnel, Information Communications Technology (ICT) and physical security. We store personal and health information in both hardcopy and electronic form. Personnel records relating to staff are generally held in hardcopy form. Where we create an electronic medical record for consumers, new information is added to your record whenever you have contact with us. We take reasonable steps to protect the information we hold from misuse, loss and from unauthorised access, modification or disclosure. We do this by implementing technology and security policies, procedures and measures to protect the personal and health information we collect and hold, including restricted access, the use of encryption and other technical measures. We also have in place procedures to ensure the secure transfer of health records where we are required to provide these to any Victorian state agencies or courts.

All our staff must also comply with our consumer confidentiality policy and with their legal, professional and statutory obligations in relation to handling your health information.

We are required to hold some types of records (e.g. health records) for a minimum of seven years. We also have obligations to retain certain types of information in accordance with the *Public Records Act 1973* (Vic).

## Information transfers interstate or overseas

Forensicare will only transfer personal information or health information outside Victoria if it believes this to be necessary to perform its functions and carry on its activities. This may include, for example, where you have consented to the transfer, or where we reasonably believe that the recipient of your information is subject to a law or contractual arrangement which provides for the handling of your information in a manner consistent with the principles set out in the PDPA and Health Records Act.

## How to request access to and correction of your personal and health information

If you would like information about your care, you can ask a staff member to give you that information.

If you would like a copy of the information that we hold about you, you have the right to access this information through the procedures in the *Freedom of Information Act 1982* (Vic). You can also ask us to correct any information you think is incorrect, incomplete, out of date or misleading. These are called FOI requests. The *Freedom of Information Act 1982* (Vic) also has requirements in relation to

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payment of a fee and timeframes for responding to requests.

FOI requests must be made in writing and your request should explain what documents you are requesting.

We will reply to your FOI request within 30 days and we can charge you a fee to make copies. We may waive this charge in some circumstances, such as for routine requests. In some cases, we can refuse your FOI request. If this happens, we will tell you why. We will also tell you what to do if you think our decision is wrong.

If you would like an FOI request application form, speak to a member of your treating team or contact Forensicare's Freedom of Information Officer on the relevant details below.

## Freedom of Information Officer

Thomas Embling Hospital  
Yarra Bend Road  
Fairfield Vic 3078  
Tel: 03 9495 9100

## Freedom of Information Officer

Community Forensic Mental Health Service  
505 Hoddle Street  
Clifton Hill VIC 3068  
Telephone: 9947 2500

Email: [info@forensicare.vic.gov.au](mailto:info@forensicare.vic.gov.au)

Web: [www.forensicare.vic.gov.au](http://www.forensicare.vic.gov.au)

If you received treatment from Forensicare whilst in prison and would like access to your health file kept by Forensicare on behalf of Justice Health (a business unit of the Department of Justice & Community Safety that is responsible for the delivery of health services for people in Victoria's prisons), you will need to make this request to the FOI Officer at the Department of Justice & Community Safety on the details below:

## Freedom of Information Officer

Department of Justice & Community Safety  
GPO Box 4356  
Melbourne VIC 3001  
[foi@justice.vic.gov.au](mailto:foi@justice.vic.gov.au)  
Tel: (03) 8684 0063

If you have been a patient of the Thomas Embling Hospital or our Community Forensic Mental Health Service and you are subject to a proceeding at the Mental Health Tribunal or a Forensic Leave Panel hearing, you are entitled to access information in connection with the proceeding before the hearing. The Mental Health Act sets out your rights of access for Mental Health Tribunal Hearings. The *Crimes (Mental Impairment & Unfitness to be Tried) Act 1997* (Vic) sets out your rights of access to your medical record before Forensic Leave Panel Hearings.

## How to complain and how we deal with complaints

Please let us know if you have any concerns or complaints about the way we are handling your personal or health information so we can address them, by using our contact details at the end of this policy. We will review any complaints and respond to them within a reasonable period of time.

If we are unable to satisfactorily resolve your concern or complaint, you can make a complaint to the Victorian Health Services Commissioner, if your complaint relates to the handling of your health

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information. The contact details for the Health Services Commissioner are as follows:

## Health Services Commissioner (Victoria)

By telephone: 1300 582 113

By mail: Health Complaints Commissioner, Level 26, 570 Bourke Street, Melbourne Victoria 3000

Website: <https://hcc.vic.gov.au/make-complaint>

For complaints about the handling of your personal or sensitive information, you can make a complaint to the Office of the Victorian Information Commissioner. The contact details for the Office of the Victorian Information Commissioner are as follows:

## Office of the Victorian Information Commissioner

By telephone: 1300 006 842

By mail: PO Box 24274, Melbourne Victoria 3000

Website: [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au)

## Fair Work Ombudsman

By telephone: 13 13 94

Website: [www.fairwork.gov.au](http://www.fairwork.gov.au)

## Our contact details

For any queries about this policy, to make an access or correction request or a complaint, please contact us on the details below.

Health Information Manager

Forensicare

Locked Bag 10

Fairfield VIC 3078

Email: [info@Forensicare.vic.gov.au](mailto:info@Forensicare.vic.gov.au)

Telephone: (03) 9495 9100

## National Safety and Quality Health Service Standards

This document supports Clinical Governance Standard

## Legislation

This document is in line with the following legislation:

- *Charter of Human Rights and Responsibilities Act 2006*
- *Child Wellbeing and Safety Act 2005*
- *Family Violence Protection Act 2008*
- *Health Records Act 2001*
- *Health Services Act 1988*
- *Mental Health Act 2014*
- *Privacy and Data Protection Act 2014*
- *Privacy Act 1988 (Cth)*
- *The Victorian Data Sharing Act 2017*

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## Executive Sponsor

Chief Executive Officer

## Person Responsible

General Counsel

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