



PRIVACY POLICY

Purpose

This policy explains the types of personal information and health information Forensicare (**Forensicare, we, us**) collects and holds and how we manage that information in accordance with our Privacy Obligations.

Forensicare vision

Meaningful lives led safely
Hope in recovery
Connected care

Target Audience

This policy applies to every person who we collect personal and health information from.

Definitions

CMIA	<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i>
Health Information	Has the meaning given under the Health Records Act, which includes, without limitation, Personal Information that relates to: (a) the physical, mental or psychological health of an individual; (b) a disability of an individual; (c) an individual's expressed wishes about the future provision of health services to them; or (d) a health service provided to an individual, as well as other Personal Information collected to provide, or in providing, a health service.
Health Records Act	<i>Health Records Act 2001</i>
Health Services Act	<i>Health Services Act 1988</i>
Family Violence Information Sharing Scheme	The information sharing scheme established under Part 5A of the <i>Family Violence Protection Act 2008</i> , which authorises the sharing of information to assess or manage risk of family violence.
Child Information Sharing Scheme	The information sharing scheme established under Part 6A of the <i>Child Wellbeing and Safety Act 2005</i> , which enables sharing of information to promote the wellbeing and safety of children
Consumer	Has the meaning given under the Mental Health and Wellbeing Act and includes a person who has received, is receiving or is seeking mental health and wellbeing services from Forensicare.
FOI Act	<i>Freedom of Information Act 1982</i>
Mental Health and Wellbeing Act (MHWA)	<i>Mental Health and Wellbeing Act 2022</i>
Privacy and Data Protection Act	<i>Privacy and Data Protection Act 2014</i>

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Personal Information	Has its meaning given under the Privacy and Data Protection Act, which currently means information or an opinion that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained but does not include Health Information, which is covered by the Health Records Act (including Part 17.1, and the Information Sharing Principles contained in that Part).
Privacy Obligations	The privacy laws that apply to us in relation to the Personal Information and Health Information we collect. These include, to the extent applicable to us, the Health Records Act, the Privacy and Data Protection Act, the Privacy Act 1988 (Cth) and section 730 of the Mental Health and Wellbeing 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 or philosophical beliefs, sexual orientation or practices and criminal record. It also includes any such wider definitions as under the Privacy and Data Protection Act.
Quality and safety purpose	A quality and safety purpose authorised under Part 6B of the Health Services Act.
Your information	Personal Information, Health Information and Sensitive Information we collect from you.

Policy

Policy statement

As a provider of specialist forensic mental health and wellbeing services that support recovery, reduce violence and offending, and strengthen community safety, Forensicare sits at the intersection of Victoria's mental health and justice systems, and as a result collects a broad range of Personal Information, including Sensitive Information to perform this role. Our use and disclosure is informed by the purpose for which we collect that information as further described in this policy.

Forensicare values the privacy of every individual whose Personal Information and Health Information we collect and hold, and we are committed to protecting your privacy in accordance with our Privacy Obligations, which regulate how we collect, use, disclose and manage your information.

Types of information we collect

The types of information we collect about you depends on who you are and your dealings with us.

The types of Personal Information and Health Information we usually collect include:

- your name, contact details (including phone number, postal and email address), gender, date of birth, drivers licence number and passport number;
- information about the mental health and wellbeing services that we provide to you;
- information about the services that have been provided to you by another service;
- Sensitive Information about consumers and employees,
- family violence related information and information provided by victims;
- information about your personal circumstances;

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- 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 all persons entering Thomas Embling Hospital unless specifically exempt;
- information required to manage our employment relationship with employees, including bank account details, tax file numbers, superannuation details, visa details, qualifications and employment history;
- information about students that is required in relation to Forensicare’s involvement in undergraduate and postgraduate education and training in the field of forensic mental health and wellbeing; and
- images via closed circuit television (CCTV) and body worn cameras to observe non-private activity only. In particular we will not use CCTV or any other surveillance device in areas designated as private such as toilets, bathrooms, changerooms or lactation rooms.

We collect this information from:

- you directly in your dealings with us;
- family members, guardians, carers and your nominated support person;
- 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, 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;
- your educational institutions;
- other information sharing entities under the Family Violence Information Sharing Scheme and Child Information Sharing Scheme; and
- Victorian courts and other parties to hearings under the CMIA, Community Corrections Victoria, the Adult Parole Board, Post Sentence Authority, the Multi-Agency Panel and the Office of Public Prosecutions.

Purposes for which we collect, use and disclose your information

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

- provide our services, including forensic mental health treatment and care, across secure inpatient, custodial and community settings, specialist assessments, advice and consultation, research, education and innovation;
- fulfil our clinical and legal obligations, as a forensic mental health service provider, to consumers and their carers, guardians, family members, nominated support person, including in undertaking clinical assessments and risk assessments, providing court reports (including under the *Crimes Mental Impairment and Unfitness to be Tried) Act 1997 and the Sentencing Act 1991*) to inform court proceedings and to enable the ongoing support and care of consumers;
- perform our business functions as an employer;

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- 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* (Vic);
- personalise, customise and improve your experience with our website (see our website collection notice for further information);
- manage and conduct our business including administration, funding, planning and quality improvement;
- in relation to the use of CCTV and body worn cameras, to prevent and deter crime, enhance the personal safety of those on our premises and promote the security of our premises;
- recruit and employ staff, contractors and students undertaking clinical placements;
- provide, promote and assist in undergraduate and postgraduate education and training for professionals in the field of forensic mental health and wellbeing;
- provide, promote and assist in teaching and training in clinical forensic mental health and wellbeing in medical, legal, general health, and other education programs;
- comply with our legal obligations, including to provide a safe work environment;
- verify the identity and manage access and security of visitors to our premises including the Thomas Embling Hospital and Community Forensic Mental Health Service;
- support the management of the risk of family violence as contemplated by the Family Violence Information Sharing Scheme;
- fulfill our duties and obligations as contemplated by the Child Information Sharing Scheme;
- meet a quality and safety requirement; and/or
- otherwise meet the purposes for which we collected the information.

We will not use or disclose your information for any purpose other than the purpose for which it was collected, or for a related (or, in the case of Health Information and Sensitive Information, directly related) purpose that you would reasonably expect or we are permitted or required to do so by law, or a court or tribunal order. For example, Forensicare:

- may disclose your information if it reasonably considers the disclosure is necessary to lessen a serious threat to you or others;
- may disclose information to courts in connection with a proceeding under the CMIA;
- may disclose Personal Information in the circumstances permitted under the Family Violence information Sharing Scheme and Child Information Sharing Scheme;
- may disclose information for a quality and safety purpose to Safer Care Victoria or the Victorian Agency for Health Information;
- is permitted, and in some instances required by law to disclose your information including in accordance with the *Fair Work Act 2009* (Cth), *Occupational Health and Safety Act 2004* (Vic), *Children, Youth and Families Act 2005* (Vic), *Crimes Act 1958* (Vic), *Victorian Data Sharing Act 2017* (Vic), *Serious Offenders Act 2018* (Vic), *Corrections Act 1986* (Vic), Health Services Act, *Health (Infectious Diseases) Regulations 2001* (Vic) and the Mental Health and Wellbeing Act.

From time to time, Forensicare is involved in research to improve health outcomes for forensic mental health consumers. 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. Your information will not be published in an identifiable way in any research report. [Who we disclose](#)

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your information to

In order to carry out our functions under the Mental Health and Wellbeing Act, and otherwise meet the purpose of collecting your information, we may disclose your information in accordance with our Privacy Obligations to:

- other mental health and wellbeing service providers, including, for example, those involved in supporting community reintegration;
- Victorian Government agencies, Ministers and State Departments;
- other State institutions and authorities, such as courts and tribunals (including the Mental Health Tribunal) via court reports, when giving evidence in court or when producing documents under warrant or subpoena;
- the Department of Health, 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, such as the Australian Taxation Office and Centrelink;
- Australian superannuation funds;
- prison operators, correctional staff at prisons and community corrections officers to the extent necessary to support the safe operation of the prison;
- other health providers;
- our service providers;
- educational institutions of students participating in educational programs delivered in whole or in part by Forensicare;
- Victorian Managed Insurance Authority;
- Child Protection if required by law;
- family members, carers, guardians and nominated support person.

Whilst we may be permitted to share your Health Information to the above third parties without your consent, we will attempt to seek your consent where practicable prior to disclosing in accordance with the principles set out in the Mental Health and Wellbeing Act.

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

We also submit Health Information to the state-wide mental health database CMI/ODS. This database is only accessible by public mental health service staff.

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 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 Information and Health Information we collect and hold, including restricted access, the use of encryption and other

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technical measures. We also have in place procedures to ensure the secure transfer of health records where we are required to share your information with another entity.

All our staff who come into contact with, or have access to, your information must comply with this policy and related procedures and with their legal, professional and statutory obligations in relation to handling your information. If unauthorised access to your information is identified, the staff member who accessed the records will be counselled by their Manager in accordance with our Disciplinary Procedure.

We retain your information in accordance with the *Public Records Act 1973 (Vic)*.

Information transfers interstate or overseas

Forensicare will only transfer your information outside Victoria to a recipient authorised to receive it in accordance with our Privacy Obligations, if 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 Privacy and Data Protection Act and Health Records Act.

How to request access to and correction of your information

We comply with our Privacy Obligations in handling your request to access the Personal Information that we hold about you, or to correct any of your information you think is incorrect, incomplete, out of date, or misleading.

Requests must be made in writing and your request should identify the information you are seeking access to.

We will reply to your 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 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 contact Forensicare's Freedom of Information Officer on the relevant details below.

Freedom of Information Officer

Forensicare
Yarra Bend Road
Fairfield Vic 3078
Tel: 03 9495 9100

Email: <mailto:health.information@forensicare.vic.gov.au>

Web: 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

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Department of Justice & Community Safety
GPO Box 123
Melbourne VIC 3001
jh.legal@justice.vic.gov.au
Tel: (03) 9947 1601

If 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 and Wellbeing Act sets out your rights of access for Mental Health Tribunal Hearings. The CMIA sets out your rights of access to your Health Information 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 Information 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 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 Information 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
By email: enquiries@ovic.vic.gov.au
Website: www.ovic.vic.gov.au

Fair Work Ombudsman

By telephone: 13 13 94
Website: 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 Services
Forensicare
Locked Bag 10
Fairfield VIC 3078

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Email: health.information@forensicare.vic.gov.au

Telephone: (03) 9495 9100

Review

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.

National Safety and Quality Health Service Standards

This document supports 1: Clinical Governance Standard

Justice Health Service Standards

This document supports Standard 5.6 Clinical governance.

Legislation

This document is in line with the following legislation:

- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Child Wellbeing and Safety Act 2005* (Vic)
- *Family Violence Protection Act 2008* (Vic)
- *Freedom of Information Act 1982* (Vic)
- *Health Records Act 2001* (Vic)
- *Health Services Act 1988* (Vic)
- *Mental Health and Wellbeing Act 2022* (Vic)
- *Privacy and Data Protection Act 2014* (Vic)
- *Privacy Act 1988* (Cth) • *The Victorian Data Sharing Act 2017* (Vic)

Executive Sponsor

Executive Director Legal, Governance & Strategy / Chief Legal Officer

Committee Responsible

Executive Committee

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