



Privacy policy

1 Statement

The Commission for Children and Young People (**the Commission**) is committed to protecting your privacy and is required to comply with the *Commission for Children and Young People Act 2012*, the *Child Wellbeing and Safety Act 2005*, the *Privacy and Data Protection Act 2014*, and the *Health Records Act 2001*.

This Policy includes guidance in relation to:

1. Our reasons for collecting information
2. How and when we collect information
3. How and when we may use and disclose information
4. How we secure, store and retain information
5. The quality of the information that we collect, use, disclose and store
6. An individual's right to access their information or their child's information and/or correct this information where it is established that the information is not accurate, complete and up to date
7. How we handle concerns about the collection, use, disclosure and storage of information

This Policy will be reviewed every two-years to take into account any new roles and functions of the Commission, as well as any changes to the law, technology, or practice.

2 Our reasons for collecting information

We will only collect information if it is necessary for one or more of the following functions:

2.1 Advocate on behalf of children and young people

We advocate on behalf of children and young people by:

- promoting continuous improvement in policies and practices affecting the safety and wellbeing of children and young people, particularly vulnerable children and young people
- promoting the rights, safety and wellbeing of children and young people, particularly vulnerable children and young people, and Aboriginal children and young people
- advocating for best practice policy, program and service responses to meet the needs of children and young people.

2.2 Monitor out of home care, child protection and youth justice services

We monitor out of home care, child protection and youth justice services by:

- providing independent scrutiny and oversight of services for children and young people, particularly those in out of home care, child protection, and youth justice systems
- conducting an Independent Visitors Program
- receiving and monitoring notifications about adverse events regarding children and young people in out of home care, or in youth justice centres. This information is received pursuant to section 60A of the *Commission for Children and Young People Act 2012*.

2.3 Conduct inquiries

We conduct systemic inquiries, individual inquiries, and child death inquiries in relation to vulnerable children and young people. The purpose of these inquiries is to review the services provided, or omitted to be provided, to the child or young person. All of these inquiries are conducted pursuant to Part 5 of the *Commission for Children and Young People Act 2012*.

2.4 Child Safe Standards

We monitor and oversee compliance with the Child Safe Standards by:

- promoting awareness and compliance with the Child Safe Standards
- supporting organisations that provide services or facilities to children and young people or employ a child or young person in certain circumstances, to comply with the child safe standards
- overseeing and enforcing compliance with the Child Safe Standards

2.5 Reportable Conduct Scheme

We administer and oversee the Reportable Conduct Scheme by:

- promoting awareness and compliance with the Reportable Conduct Scheme
- monitoring certain organisations' ability to
 - identify reportable conduct
 - report reportable allegations
 - investigate and appropriately respond to reportable allegations
- overseeing, monitoring and reviewing investigations of allegations of reportable conduct undertaken by relevant organisations or regulators
- conducting our own investigations into allegations of reportable conduct.

2.6 Personal staff information

Personal staff information is also collected for the purposes of onboarding new employees and providing the necessary personal information to Payroll (Department of Families, Fairness and Housing). This information includes full names, date of birth, home address and phone numbers, next of kin, bank account information and various demographic characteristics of the employee (Aboriginal or Torres Strait Islander, Disability status).

Information is also collected (including proof of identity) for the submission of a criminal history check, which is a condition of employment at the Commission.

All information is stored securely in TRIM and access restricted to a limited number of Commission staff working in the Corporate Services team.

3 Collecting information

3.1 When we will collect information

We will only collect Personal Information if it is necessary for one or more of our functions or activities.

We will only collect Health Information if it is necessary for one or more of our functions and one or more of the following applies:

- you have consented
- the collection is required, authorised or permitted by law
- the information is received from other individuals or organisations to enable us to investigate a suspicion that unlawful activity has been, is being, or may be engaged in, such as allegations of reportable conduct
- the collection is necessary to prevent or lessen a serious threat to the life, health, safety or welfare of any individual
- the collection is necessary to prevent or lessen a serious threat to public health, public safety or public welfare
- the collection is necessary for a law enforcement function.

We will only collect Sensitive Information if it is necessary for one or more of our functions and one or more of the following applies:

- you have consented
- the collection is required, authorised or permitted by law
- the collection is necessary to prevent or lessen a serious threat to the life, health, safety or welfare of any individual, and the individual is incapable of consenting.

3.2 How we collect information

We will collect Personal Information, Health Information, and Sensitive Information using only lawful and fair means.

In conducting our Advocacy, Monitoring and Inquiries functions, we may collect an individual's Personal Information, Health Information and Sensitive Information from a number of sources including:

- the affected child or young person and/or their parents or care givers
- Government departments such as the Department of Families, Fairness and Housing, the Department of Justice and Community Safety, and the Department of Education and Training
- out of home care services, secure welfare services, and youth justice services
- health services and human services
- registered community organisations
- Aboriginal Community Controlled Organisations (ACCOs)
- schools
- Coroners Court of Victoria
- Victoria Police.

In conducting our Child Safe Standards functions, we may collect an individual's Personal Information, Health Information and Sensitive Information from:

- any person who raises concerns about an organisation’s compliance with the Child Safe Standards
- organisations required to comply with the Child Safe Standards
- regulators of organisations required to comply with the Child Safe Standards
- an Information Sharing Entity in making a request under either the Child Information Sharing Scheme or the Family Violence Information Sharing Scheme.

In the case of the Reportable Conduct Scheme, we may collect an individual’s Personal Information, Health Information, and Sensitive Information from:

- a member of the public
- parent or caregiver on behalf of a child
- a child
- employees, contractors, or volunteers of organisations who are required to comply with the Reportable Conduct Scheme
- heads of organisations who are required to comply with the Reportable Conduct Scheme
- regulators of organisations who are required to comply with the Reportable Conduct Scheme
- regulators of individuals who are the subject of a Reportable Allegation
- any person who has knowledge of the allegation of Reportable Conduct or associated misconduct, and can assist the Commission with an investigation
- an Information Sharing Entity in making a request under either the Child Information Sharing Scheme or the Family Violence Information Sharing Scheme.

When we collect your Personal Information, Health Information, and Sensitive Information, we will take reasonable steps to advise you of this Privacy Policy, and in particular, what information is being collected, for what purpose, and how the information may be used and disclosed in your circumstances.

We may also collect your Personal Information when you visit the Commission’s website. The Commission’s website has a separate privacy statement that contains details about how the Commission handles any Personal Information that it collects from its website. A copy of the Commission’s website privacy statement can be accessed at <https://ccyp.vic.gov.au/privacy/>.

3.3 Holding of personal information

The Commission re-evaluates and reviews its need for collecting and holding the personal information of an employee.

If personal information is no longer required and there is no further legislative (or other) requirement to hold the information, it may be destroyed in a secure, appropriate manner.

4 Using and disclosing information

4.1 Use

We will use an individual’s Personal Information, Health Information and Sensitive Information for the reasons outlined above – see: Section 1 – ‘Our Reasons for Collecting Information’.

We may also use Personal Information and Health Information to compile statistics, monitor themes, and determine how and when to exercise our powers and functions.

4.2 Disclosure

We may disclose an individual's Personal Information, Health Information, and Sensitive Information to other individuals or organisations for any reasons that are expressly authorised, required or permitted by law. This includes disclosure in the following circumstances:

4.2.1 When you have provided consent to disclose the Information

We may disclose an individual's Personal Information, Health Information, Sensitive Information, and Unique Identifier to another person or organisation if the individual has provided us with consent to do so.

We may seek the consent of a child or young person to disclose their Personal Information, Health Information and Sensitive Information so that we can:

- promote their rights, safety and wellbeing
- bring their views to the attention of relevant Government departments, health services or human services such as child protection, youth justice, and education and support services
- provide advice to child protection, youth justice, relevant health services, or relevant human services about the services that have been, are being, or can be provided to a child or young person.

We may also seek the consent of an adult Victim Survivor or Third Party to disclose their Personal Information, Health Information and/or Sensitive Information in response to a request for information from an Information Sharing Entity pursuant to the Family Violence Information Sharing Scheme, noting that there will be some circumstances where the requested information may be provided even where consent is not obtained.

4.2.2 To perform our functions and exercise our powers

In relation to our Advocacy, Monitoring and Inquiries functions, we may disclose an individual's Personal Information, Health Information and Sensitive Information to:

- health services and human services
- relevant departments such as the Department of Families, Fairness and Housing, the Department of Justice and Community Safety, and the Department of Education and Training
- relevant Ministers such as the Minister for Children.

Sometimes, we may also disclose an individual's Personal Information, Health Information, and/or Sensitive Information to Victoria Police, the Coroners Court of Victoria, and other investigative bodies to avoid unnecessary duplication of inquiries or to facilitate the co-ordination and expedition of inquiries.

In relation to the Child Safe Standards and Reportable Conduct Scheme, we may disclose an individual's Personal Information, Health Information, and Sensitive Information to:

- the organisation that is required to comply with the Child Safe Standards and/or the Reportable Conduct Scheme
- a regulator of an organisation that is required to comply with the Child Safe Standards and/or the Reportable Conduct Scheme

- a regulator of an individual who is the subject of a Reportable Allegation
- independent investigators who have been engaged to conduct an investigation into a Reportable Allegation
- Victoria Police
- the Department of Government Services (Working with Children Check)
- the Department of Families, Fairness and Housing (Child Protection)
- Other statutory authorities such as the Ombudsman, the Victorian Information Commissioner, the Disability Services Commissioner, and the Health Services Commissioner.

In relation to the Reportable Conduct Scheme, we may also disclose the following information to a child who is the victim of the alleged reportable conduct, and/or their parents or care givers:

- information about the progress of an investigation
- findings, reasons for findings, and recommendations made at the conclusion of an investigation
- any action taken in response to the findings.

This disclosure is specifically permitted under section 16ZB of the *Child Wellbeing and Safety Act 2005* and may include the disclosure of an individual's Personal Information, Health Information and/or Sensitive Information.

4.2.3 When there is a serious threat to an individual

We may disclose your Personal Information, Health Information, and Unique Identifier if it is reasonably necessary to prevent a **serious** threat of harm to the life, health, safety or welfare of any person.

In relation to the Child Safe Standards, we may also disclose Personal Information, Health Information, Sensitive Information and Unique Identifier to prevent a **serious OR imminent** threat of harm to the health, safety or wellbeing of a child.

4.2.4 When there is a serious threat to public health, safety or welfare

We may disclose an individual's Personal Information, Health Information, Sensitive Information and Unique Identifier if we believe that it is necessary to lessen or prevent a serious threat to public health, public safety or public welfare.

4.2.5 Reporting concerns about unlawful activity

We may disclose an individual's Personal Information, Health Information and Unique Identifier to relevant persons or authorities if we have concerns that unlawful activity has been, is being, or may be engaged in.

4.2.6 For law enforcement purposes

We may also disclose an individual's Personal Information, Health Information, Sensitive Information and Unique Identifier to law enforcement agencies, such as Victoria Police, in the following circumstances:

- to prevent, detect, investigate, prosecute or punish a person for criminal offences or breaches of a law imposing a penalty or sanction
- to prevent, detect, investigate and remedy seriously improper conduct

- to prepare or conduct proceedings in a court or tribunal
- to implement orders made by a Court or Tribunal.

4.2.7 During legal proceedings

We may disclose an individual's Personal Information, Health Information, and Sensitive Information to a court of tribunal in the course of legal proceedings.

4.2.8 Permitted or required by law

We may disclose an individual's Personal Information and Health Information in circumstances where it is required or permitted by law.

An example of this is the obligation on all adults who form a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age to report that information to Victoria Police. It may be a criminal offence not to do so.

In some circumstances, where required by Family Violence Information Sharing Scheme, established under the *Family Violence Protection Act 2008*, or the Child Information sharing Scheme, established under the *Child Wellbeing and Safety Act 2005*, we may use or disclose Personal Information, Health Information or Sensitive Information in accordance with those information sharing schemes.

As the Commission is prescribed an Information Sharing Entity under both Acts, the use or disclosure of Personal Information, Health Information or Sensitive Information may occur when the use and disclosure is authorised:

- under the *Family Violence Protection Act 2008*, where the use or disclosure is to another information sharing entity for a family violence risk assessment or family violence protection purpose
- under the *Child Wellbeing and Safety Act 2005*, where the use or disclosure is to another information sharing entity for the purpose of promoting the wellbeing or safety of a child or group of children and the use or disclosure would assist that entity in carrying out an activity relating to the child or group of children.

5 Quality of the information

We will take reasonable steps to ensure that the Personal Information, Health Information and Sensitive Information we collect, use, disclose and store is accurate, complete, and up to date.

6 Security, storage and retention of information

We will take reasonable steps to protect Personal Information, Health Information, Sensitive Information and Unique Identifiers that we store from misuse, loss, unauthorised access, modification or disclosure.

7 Right to access and correct your information

You have the right to request access to any of your Personal Information, Health Information, Sensitive Information and Unique Identifier we may have collected. These applications will be

processed in accordance with relevant laws such as the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001* and the *Freedom of Information Act 1982*. In some circumstances, this may mean you will not get access to all of the information that you have requested.

You also have the right to request that we correct any Personal Information, Health Information, and Sensitive Information we may have collected about you that may be inaccurate, incomplete or out of date.

If you would like to exercise these rights, you are invited to contact the Commission using the following details:

Chief Executive Officer
Commission for Children and Young People
18/570 Bourke Street, Melbourne VIC
1300 78 29 78
contact@ccyp.vic.gov.au

8 Concerns about the collection, use, disclosure or storage of information

If you have a concern about the way in which we collect, use, disclose or store your information we would encourage you to contact the Commission on 1300 78 29 78 or via email on contact@ccyp.vic.gov.au to discuss your concerns.

Appendix 1 – definitions

ACCOS (Aboriginal Community Controlled Organisation) has the same meaning as 'Aboriginal agency' in the *Children Youth and Families Act 2005* and refers to an organisation that meets all of the following criteria:

- it is a registered community service
- it is managed by Aboriginal persons
- its activities are carried on for the benefit of Aboriginal persons
- the Governor in Council has by Order published in the Government Gazette declared the organisation to be an Aboriginal agency.

Child death inquiries refers to inquiries conducted by the Commission pursuant to section 34 of the *Commission for Children and Young People Act 2012*, which are inquiries that must be conducted in relation to a child who has died and who was a child protection client at the time of his or her death, or within 12 months before his or her death.

Child protection client has the same meaning as the definition in the *Commission for Children and Young People Act 2012* and refers to a child who is the subject of a report under sections 28, 33(2), 183 or 184 of the *Children Youth and Families Act 2005*, and the Department of Families, Fairness and Housing has not recorded that the child or young person's case is closed.

Child Safe Standards means the standards made under section 17(1) of the *Child Wellbeing and Safety Act 2005*.

Commission means the Commission for Children and Young People as established by the *Commission for Children and Young People Act 2012*.

Health Information has the same meaning as the definition in the *Health Records Act 2001* and includes information or an opinion about

- the physical, mental or psychological health of an individual
- the disability of an individual
- an individual's expressed wishes about the provision of services
- Health services provided to the individual

Health Services has the same meaning as the definition in the *Commission for Children and Young People Act 2012* and includes

- a relevant health service within the meaning of the section 141 of the *Health Services Act 1988*
- a mental health service provider within the meaning of the *Mental Health Act 2014*
- a maternal and child health centre
- an entity that receives funding under a State contract to provide drug or alcohol treatment services.

Human Services has the same meaning as the definition in the *Commission for Children and Young People Act 2012* and includes

- a children's service within the meaning of the *Children's Services Act 1996*
- an education and care service within the meaning of the Education and Care Services National Law (Victoria)

- an entity that receives funding under a State contract to provide disability services to a person with a disability within the meaning of the *Disability Act 2006*
- an entity that receives funding under a State contract to provide services in relation to family violence or sexual assault
- an entity that receives funding from the Department of Families, Fairness and Housing to provide family support services
- an entity that receives funding under a State contract to provide assistance in providing housing services or other assistance to homeless persons.

Individual inquiries refers to inquiries conducted by the Commission pursuant to section 37 or 38 of the *Commission for Children and Young People Act 2012*, which are inquiries that may be conducted in relation to a matter relating to the safety or wellbeing of a vulnerable child or young person, or a group of vulnerable children or young people.

Out of home care services has the same meaning as the definition in the *Children Youth and Families Act 2005* and refers to a registered out of home care service or a community service established under section 44 of the *Children Youth and Families Act 2005* to provide care to a child or young person who is not in the care of their parent

Personal Information has the same meaning as the definition in the *Privacy and Data Protection Act 2014* and includes information or an opinion, whether true or not, about an individual whose identity is apparent, or can be reasonably ascertained from the information or opinion.

Registered community service means a body that is registered under section 46 of the *Children Youth and Families Act 2005* to provide services to meet the needs of children and young people requiring care, support, protection or accommodation; or services provided to families requiring support.

Relevant organisations to which Child Safe Standards applies has the same meaning as the definition of 'relevant entity' in the *Child Wellbeing and Safety Act 2005* and means an entity that is required under section 19, 20 or 21 to comply with the Child Safe Standards; or an individual who is required under section 23 to comply with the Child Safe Standards.

Relevant organisations to which Reportable Conduct Scheme applies has the same meaning as the definition of 'entity to which the reportable conduct scheme applies' in the *Child Wellbeing and Safety Act 2005*

Regulators of organisations to which Child Safe Standards applies has the same meaning as the definition of 'relevant authority' in the *Child Wellbeing and Safety Act 2005* and means any of the following:

- a Department that is responsible for regulating the 'relevant entity'
- a Department that provides funding to the 'relevant entity'
- the Victorian Registration and Qualifications Authority
- any other authority that regulates or funds the 'relevant entity' and that is prescribed to be a 'relevant authority'.

Regulators of organisations to which Reportable Conduct Scheme applies has the same meaning as 'regulator' in the *Child Wellbeing and Safety Act 2005*, and means any of the following:

- a Department that is responsible for regulating the entity

- a Department that provides funding to the entity
- the Victorian Registration and Qualifications Authority
- any other body that regulates or funds the entity and that is prescribed to be a regulator in respect of the entity.

Regulators of individuals to whom the Reportable Conduct Scheme applies has the same meaning as ‘regulator’ in the *Child Wellbeing and Safety Act 2005*, and means any of the following, as the case requires:

- the Suitability Panel
- the Australian Health Practitioner Regulation Agency
- the National Health Practitioner Board
- the Victorian Institute of Teaching
- any other body that is prescribed to be a regulator.

Reportable Allegation has the same meaning as the definition in the *Child Wellbeing and Safety Act 2005* and means any information that leads a person to form a reasonable belief that an employee has committed reportable conduct or misconduct that may involve reportable conduct, whether or not the conduct or misconduct is alleged to have occurred within the course of the person’s employment.

Reportable Conduct has the same meaning as the definition in the *Child Wellbeing and Safety Act 2005* and means

- a sexual offence committed against, with, or in the presence of a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded
- sexual misconduct committed against, with, or in the presence of a child
- physical violence committed against, with, or in the presence of a child
- any behaviour that causes significant emotional or psychological harm to a child
- Significant neglect of a child.

Reportable Conduct Scheme means the scheme set out in Part 5A of the *Child Wellbeing and Safety Act 2005* where relevant entities to which the Reportable Conduct Scheme applies must report and investigate reportable allegations about their employees.

Secure welfare services has the same meaning as the definition in the *Children Youth and Families Act 2005* and refers to services with a lock up facility operated by the Department of Families, Fairness and Housing to meet the needs of children and young people requiring protection, care or accommodation

Sensitive Information has the same meaning as the definition in the *Privacy and Data Protection Act 2014* and includes information or an opinion about an individual’s racial or ethnic origin, political opinion, religious belief or affiliation, sexual preferences or practices, or the individual’s criminal record.

Systemic inquiries refers to inquiries conducted by the Commission pursuant to section 39 or 40 of the *Commission for Children and Young People Act 2012*, and refers to inquiries that may be conducted when the Commission identifies a persistent or recurring systemic issue in the provision of services, and considers that a review of those services will assist in the improvement of the provision of those services.

Unique Identifier has the same meaning as the definition in the *Privacy and Data Protection Act 2014* and means a number assigned to a person by an organisation in order to identify

the person for the purposes of an organisation's operations. Tax file numbers and Driver's License numbers are examples.

Vulnerable child or young person has the same meaning as section 5 of the *Commission for Children and Young People Act 2012* and includes a child or young person who meets any one or more of the following descriptions:

- a child or young person who is or was a child protection client
- a youth justice client
- a child or young person attending a youth justice unit in accordance with an order of the Children's Court
- a child or young person who is receiving or has received services from a registered community service
- a child or young person whose primary family carer is receiving or has received services from a registered community service
- a child or young person who has died from abuse or neglect
- a young person under the age of 21 years who is leaving, or has left, the care of the Secretary of the Department of Families, Fairness and Housing to live independently.

Youth justice client has the same meaning as the definition in the *Commission for Children and Young People Act 2012* and is a child or young person who meets any one or more of the following descriptions:

- a child or young person in respect of whom any of the following orders are in force:
 - a probation order under section 380 of the *Children Youth and Families Act 2005*
 - a youth supervision order within the meaning of the *Children Youth and Families Act 2005*
 - a youth attendance order within the meaning of the *Children Youth and Families Act 2005*
- a child or young person who is detained awaiting trial, the hearing of a charge, or a sentence
- a child or young person who is detained in a youth justice centre or a youth residential centre
- a child or young person awaiting sentence in respect of whom a pre-sentence report has been ordered.