

PO 4 - Privacy Policy

Purpose and Application

This Policy outlines how ACCS collects, holds, manages, uses, discloses or transfers Personal and Health information and how individuals (including ACCS employees) may access and correct Personal and Health Information held by ACCS.

Definitions

In this Policy, the following definitions apply:

Health Information is defined in the *Health Records Act 2001* (Vic.) and means information or an opinion about—the physical, mental or psychological health (at any time) of an individual; or a disability (at any time) of an individual; or an individual's expressed wishes about the future provision of health services to him or her; or a health service provided, or to be provided, to an individual— that is also personal information; or other personal information collected to provide, or in providing, a health service; or 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 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 the individual or of any of his or her descendants.

Personal Information is defined in the *Privacy and Data Protection Act 2014* (Vic.) and 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 defined in the *Privacy and Data Protection Act 2014* (Vic.) and is a subset of personal information and includes information about a person's racial or ethnic origin, political opinions or membership of political associations, religious or philosophical beliefs, membership of professional or trade associations or trade unions, sexual preferences or practices and criminal record.

Unless otherwise stated, all references in this Policy to 'Personal Information' includes 'Health Information and Sensitive Information'.

Functions and Activities of ACCS

ACCS collects and handles Personal Information and Health Information in the exercise of its functions and activities in accordance with the Privacy and Data Protection Act 2014 (Vic.) and the Health Records Act 2001 (Vic.). The following list broadly describes the functions and activities for which ACCS collects, holds, uses and discloses Personal and Health Information:

1. Providing conciliation services for the purposes of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic.) and the *Accident Compensation Act 1985* (Vic.). In particular, ACCS collects Personal and Health Information to enable ACCS to conduct conciliations for individuals who have requested that ACCS provide this service through the completion of a 'Request for Conciliation form'.
2. Dealing with enquiries, feedback and complaints from the general public.
3. Processing requests for access to documents or information under the *Freedom of Information Act 1982* (Vic.) or ACCS' Freedom of Information Policy.
4. Managing ACCS' human resources and facilities, including employment and payroll related activities; and
5. Other administrative or incidental activities including procuring goods and services and complying with reporting requirements.

Collection of Personal and Health Information

ACCS collects Personal and Health Information for the purpose of performing the functions and activities described above.

The types of Personal Information ACCS routinely collects may include: name, date of birth, phone number, address, email address, gender, title, employment history, educational and professional qualifications, financial history, tax file number and salary and wage information.

The types of Health Information ACCS routinely collects may include: information such as symptoms or diagnosis and the treatment given, medical reports, specialist reports, test results, pharmaceutical prescriptions, certificates of capacity and clinical notes. The type of information ACCS collects will depend on the individual's interaction with ACCS and the information that may be necessary to resolve a dispute through conciliation. This may also include copies of accounts or receipts and payslips.

Collection of Personal and Health Information directly from an Individual

ACCS collects Personal and Health Information directly from the individual to whom the information relates. For example, when the individual:

1. Completes a Request for Conciliation Form or is involved in a conciliation conference.
2. Provides feedback or makes an enquiry or information request to ACCS.
3. Applies for a job with ACCS.

Collection of Personal and Health Information from Third Parties

ACCS also collects Personal and Health Information about an individual from other persons and sources including where:

1. This is required or authorised by or under an Australian law (such as the *Workplace Injury Rehabilitation and Compensation Act 2013*);
2. The individual has consented to the collection from someone other than the individual;
3. This is required or authorised by an Australian court or tribunal; or
4. It is not possible or is impractical to collect the information from the individual concerned.

ACCS may collect documents or information about a person from their employer or co-workers, from authorised agents of WorkSafe, self-insurers, medical and health service providers, union representatives and family members.

In managing ACCS' human resources, ACCS may also collect Personal and Health Information about ACCS' employees from third parties such as recruitment agencies and other ACCS employees.

Collection of Sensitive Information

ACCS' functions and activities may also require ACCS to collect Sensitive Information about an individual. ACCS only collects Sensitive Information about an individual when:

1. The collection is required or authorised by or under an Australian law
2. The individual consents (including impliedly) to the collection and the information is reasonably necessary for, or directly related to, one or more of ACCS' functions or activities
3. The collection is required or authorised by or under an Australian court or tribunal order; or
4. The collection is necessary to prevent or lessen a serious threat to life, health or safety and the individual is incapable of giving consent to the collection.

Use and disclosure of Personal and Health Information

ACCS uses and discloses Personal and Health Information to carry out its functions and activities. Generally this means that ACCS will not use or disclose information except for the primary purpose for which the information was collected. However, in some cases ACCS may use or disclose information for a related secondary purpose, if the individual the information is about can reasonably expect ACCS to do so or if the individual consents.

Generally, ACCS uses and discloses Personal and Health Information for the following primary purposes:

1. To process and assess a request for conciliation; or
2. To conduct a conciliation; or
3. For human resources purposes, including employment and payroll activities

ACCS may also use and disclose Personal and Health information for secondary purposes related to the conciliation process. For example, evaluating ACCS' conciliation processes for better case management in the future.

In some cases, ACCS may disclose an individual's personal and health information to third parties, including:

1. A union;
2. A legal practitioner or a representative;
3. A family member (if nominated by that person to assist them with the conciliation);
4. Other parties to the conciliation;
5. Courts or tribunals where they are authorised to obtain it; and
6. Other persons authorised by that individual or by law to receive it.

For example, when an individual completes a 'Request for Conciliation form', ACCS will provide a copy of the form to the individual's employer and a copy of the request (including all attachments) to the WorkSafe Agent or Self-Insurer.

Unless a Conciliation Officer is of the view that the provision of information will aggravate a dispute or result in a breach of confidence, medical and other ancillary information provided to a Conciliation Officer may be made available to parties to the conciliation who are legally entitled to receive the information (where appropriate) to enable the parties to understand each other's position.

Access to and Correction of Personal and Health Information

ACCS will make any information it holds about an individual reasonably accessible to the individual, and will provide the information to the individual on reasonable request. In some circumstances, ACCS may ask that the request be made in writing to assist ACCS in identifying the relevant information or documents. For example, if you are making a request to access your Conciliation file, ACCS may request that you put your request in writing to enable ACCS to identify you.

ACCS will endeavour to maintain accurate records. ACCS will use best endeavours to correct the information promptly when an error is identified (either internally or by an external party).

Following receipt of a request for access or correction, ACCS will take steps to verify the identity of the individual before considering the request. Where appropriate, you may be asked to provide your name and address so that your identity can be verified.

ACCS will not release or provide access to information to a third party, unless:

1. It has been authorised to do so by the individual to whom the information relates;
2. It is permitted or required to do so by law; or
3. It is appropriate or required in the performance of a function of ACCS.

Requests for access to and/or correction of documents containing personal information held by ACCS will be handled in accordance with the *Freedom of Information Act 1982* (Vic.) (where appropriate) and should be addressed in writing to:

The Privacy Officer

Post: Accident Compensation Conciliation Service
Level 2, 215 Spring Street, Melbourne 3000
GPO Box 251, Melbourne 3001

Email: info@conciliation.vic.gov.au.

Unique Identifiers

ACCS may assign a unique identifier to a person if ACCS believes it is necessary to enable ACCS to carry out its functions efficiently, for example, a dispute reference number. ACCS will not use or disclose an identifier ACCS assigns to a person unless it is necessary for ACCS to fulfil its functions or its obligations to another organisation or where the disclosure is otherwise required or authorised by law. A dispute reference number may be disclosed to a number of parties including but not limited to employers, agents, self-insurers, a worker's legal representative, a treating health practitioner and other service providers.

Data Storage and Security

ACCS has privacy and security measures in place that are consistent with the Victorian Protective Data Security Framework to avoid misuse, loss, unauthorised access, modification or disclosure of Personal or Health Information. ACCS Employees are bound by the applicable confidentiality clauses in the 'Code of Conduct for Victorian Public Sector Employees' and relevant employment contracts.

Where appropriate, ACCS will destroy or permanently de-identify Personal Information or Health Information if it is no longer required in accordance with the *Public Records Act 1973* and the relevant Disposal Authorities.

Anonymity

The nature of most of ACCS' functions and activities is such that individuals must provide their name and contact information. For example, ACCS can only deal with a Request for Conciliation if the individual identifies themselves.

However, wherever it is possible and lawful to do so, individuals can interact anonymously with ACCS.

Transfer of Information outside Victoria

Generally, ACCS will not transfer any Personal or Health Information outside of Victoria. In the rare case that this may be necessary, ACCS will only send Personal or Health Information to a jurisdiction outside of Victoria if the recipient of the information is bound by a scheme that is substantially similar to the provisions in the *Privacy and Data Protection Act 2014 (Vic.)* and the *Health Records Act 2001 (Vic.)* or ACCS has obtained your consent. In some cases, this consent may be implied. All transfers of information outside Victoria will be made in accordance with the provisions in the *Privacy and Data Protection Act 2014 (Vic.)*.

Complaints

Any concerns or complaints regarding privacy should be made in writing to ACCS using the contact details below:

Post: Accident Compensation Conciliation Service
Level 2, 215 Spring Street, Melbourne 3000
GPO Box 251, Melbourne 3001
Email: complaints@conciliation.vic.gov.au.

For more information about ACCS' general complaints procedure, please refer to ACCS' Complaints Process page.

If you are not satisfied with ACCS' response to your privacy complaint, you can make a complaint to the Office of the Victorian Information Commissioner (OVIC). Details of how to make an OVIC complaint can be found on their website.

If you wish to make a complaint against ACCS for a breach of privacy in relation to health information, you should contact the Office of the Health Complaints Commissioner.

Privacy Breaches

The Privacy Officer will investigate any reported privacy breaches and (where relevant) consider the following:

- Breach containment and preliminary assessment
- Evaluate the risks associated with the breach
- Notifying the affected parties (if appropriate)
- Preventing future breaches

Where applicable, for example if there is a foreseeable risk of harm to individuals affected by a privacy breach, ACCS may report the privacy breach to the Office of the Australian Information Commissioner or OVIC.