

Purpose

1. This Policy outlines how the Workplace Injury Commission (**WIC**) collects, holds, manages, uses, discloses or transfers Personal and Health Information and how individuals (including WIC employees) may access and correct Personal and Health Information held by WIC.

Definitions

2. In this Policy, the following definitions apply:
 - a. **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.
 - b. **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.
 - c. **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 orientation or practices and criminal record.
3. Unless otherwise stated, all references in this policy to 'Personal Information' include 'Health Information and Sensitive Information'.

Policy statement

Functions and activities of WIC

4. WIC 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 WIC collects, holds, uses and discloses Personal and Health Information:



- a. Providing conciliation and arbitration services for the purposes of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) and the *Accident Compensation Act 1985* (Vic). In particular, WIC collects Personal and Health Information to enable WIC to conduct conciliation and arbitration for individuals who have requested that WIC provide this service through the completion of an *Application for Conciliation or Referral for Arbitration form*.
- b. Dealing with enquiries, feedback and complaints from the general public.
- c. Conducting stakeholder surveys and engagement with external user groups.
- d. Processing requests for access to documents or information under the *Freedom of Information Act 1982* (Vic) or WIC's *Freedom of Information Policy*.
- e. Managing WIC's human resources, including recruitment, induction, health, safety and wellbeing, performance, training and development, staff surveys and employment conditions, entitlements and payroll related activities; and
- f. Other administrative or incidental activities including procuring goods and services and complying with reporting requirements.

Collection of personal and health information

5. WIC collects Personal and Health Information for the purpose of performing the functions and activities described above.
6. The types of Personal Information WIC 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.
7. The types of Health Information WIC 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 WIC collects will depend on the individual's interaction with WIC and the information that may be necessary to resolve a dispute through conciliation, or conduct an arbitration hearing. This may also include copies of accounts or receipts and payslips.

Collection of personal and health information directly from an individual

8. WIC collects Personal and Health Information directly from the individual to whom the information relates. For example, when the individual:
 - a. Completes an *Application for Conciliation or Referral for Arbitration form*, or is involved in a conciliation conference or arbitration hearing.
 - b. Provides feedback or makes an enquiry or information request to WIC.
 - c. Applies for a job with WIC.
 - d. Is engaged as a contracted service provider.



- e. Attends or participates in employee meetings, surveys, training and professional development.
- f. Registers for or attends a training or information session for external stakeholders or user groups
- g. Participates in a user testing or user experience exercise.

Collection of personal and health information from third parties

- 9. WIC also collects Personal and Health Information about an individual from other persons and sources including where:
 - a. This is required or authorised by or under an Australian law (such as the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic));
 - b. The individual has consented to the collection from someone other than the individual;
 - c. This is required or authorised by an Australian court or tribunal; or
 - d. It is not possible or is impractical to collect the information from the individual concerned.
- 10. WIC may collect documents or information about a person from their employer or co-workers, from WorkSafe Agents, Self-insurers, medical and health service providers, union, worker or legal representatives, family members and support persons.
- 11. In managing WIC's human resources, WIC may also collect Personal and Health Information about WIC's employees from third parties such as recruitment agencies and other WIC employees.

Collection of sensitive information

- 12. WIC's functions and activities may also require WIC to collect Sensitive Information about an individual. WIC only collects Sensitive Information about an individual when:
 - a. The collection is required or authorised by or under an Australian law
 - b. The individual consents (including impliedly) to the collection and the information is reasonably necessary for, or directly related to, one or more of WIC's functions or activities
 - c. The collection is required or authorised by or under an Australian court or tribunal order; or
 - d. 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

- 13. WIC uses and discloses Personal and Health Information to carry out its functions and activities. Generally this means that WIC will not use or disclose information except for the primary purpose for which the information was collected. However, in some cases WIC may use or disclose information for another purpose, such as for a related and reasonably expected secondary purpose, or where the individual consents.



14. Generally, WIC uses and discloses Personal and Health Information for the following primary purposes:
 - a. To process and assess an application for conciliation or arbitration; or
 - b. To conduct a conciliation or arbitration hearing; or
 - c. For human resources purposes, including recruitment, employment and payroll activities.
15. WIC may also use and disclose Personal and Health information for secondary purposes related to the conciliation or arbitration process. For example, evaluating WIC's conciliation or arbitration processes for improved case management or service delivery, or in response to formal or regulatory processes such as a dispute-related complaint, investigation or audit.
16. In some cases, WIC may disclose an individual's personal and health information to third parties, including:
 - a. A union;
 - b. A legal practitioner or a representative;
 - c. A family member or support person (if nominated by that person to assist them with the conciliation);
 - d. Other parties to the conciliation;
 - e. Courts or tribunals where they are authorised to obtain it;
 - f. Other persons authorised by that individual or by law to receive it;
 - g. WIC contractors and service providers; and
 - h. A Medical Panel for a binding opinion.
17. For example, when an individual completes an *Application for Conciliation* form, WIC 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.
18. In conciliation, any information or document considered relevant to the resolution of the dispute may be provided to any other party. In arbitration, WIC must provide any information or documents to each party to the dispute.

Access to and correction of personal and health information

19. WIC 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, WIC may ask that the request be made in writing to assist WIC in identifying the relevant information or documents. For example, if you are making a request to access your conciliation file, WIC may request that you put your request in writing to enable WIC to identify you.
20. WIC will endeavour to maintain accurate records and use best endeavours to correct the information promptly when an error is identified (either internally or by an external party).



21. Following receipt of a request for access or correction, WIC 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.
22. WIC will not release or provide access to information to a third party, unless:
 - a. It has been authorised to do so by the individual to whom the information relates;
 - b. It is permitted or required to do so by law; or
 - c. It is appropriate or required in the performance of a function of WIC.
23. Requests for access to and/or correction of documents containing personal information held by WIC 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: Workplace Injury Commission
Level 1, 215 Spring Street, Melbourne 3000
GPO Box 251, Melbourne 3001

Email: privacy@wic.vic.gov.au

Unique identifiers

24. WIC may assign a unique identifier to a person if WIC believes it is necessary to enable WIC to carry out its functions efficiently, for example, a dispute reference number. WIC will not use or disclose an identifier WIC assigns to a person unless it is necessary for WIC 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

25. WIC 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. WIC Employees are bound by the applicable confidentiality clauses in the *Code of Conduct for Victorian Public Sector Employees* and relevant employment contracts.
26. Where appropriate, WIC 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* (Vic) and the relevant Disposal Authorities.



Anonymity

27. The nature of most of WIC's functions and activities is such that individuals must provide their name and contact information. For example, WIC can only deal with a request for conciliation or arbitration services if the individual identifies themselves.
28. However, wherever it is possible and lawful to do so, individuals can interact anonymously with WIC.

Transfer of information outside Victoria

29. Personal Information provided as part of conciliation or arbitration, may be temporarily stored in cloud infrastructure made available by a third party for functional purposes.
30. Generally, WIC 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 WIC has obtained your consent. In some cases, this consent may be implied.

Complaints

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

Post: Workplace Injury Commission
Level 1, 215 Spring Street,
Melbourne 3000
GPO Box 251, Melbourne 3001
Email: complaints@wic.vic.gov.au
32. For more information about WIC's general complaints procedure, please refer to WIC's Contact Us page.
33. If you are not satisfied with WIC's 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.
34. If you wish to make a complaint against WIC for a breach of privacy in relation to health information, you should contact the Health Complaints Commissioner.

Privacy breaches

35. The Privacy Officer will investigate any reported privacy breaches and (where relevant) consider the following:
 - a. Breach containment and preliminary assessment.
 - b. Evaluate the risks associated with the breach.
 - c. Notifying the affected parties (if appropriate).



d. Preventing future breaches.

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