

Privacy and Confidentiality Policy

Policy number	32	Version	2
		Approved by board on	April 2018
Responsible person	President	Review date	April 2020

Introduction

Living Positive Victoria is committed to upholding its legal and ethical obligation to protect the right to privacy of our clients and their families, Living Positive Victoria members, employees, volunteers, board members, students and representatives of agencies and organisations we deal with, and to maintain the confidentiality of the personal, health and sensitive information we hold about them.

Purpose

This purpose of this policy is to provide a framework that outlines Living Positive Victoria's commitment to meeting these obligations and how this will be achieved.

Scope

All Living Positive Victoria employees, board members, consultants, contractors, volunteers and students on placement must comply with this Privacy Policy.

The Privacy Policy applies to all personal, health or sensitive information about individuals collected, used, stored, disclosed, shared and destroyed by Living positive Victoria, regardless of the format of the information.

All privacy-related Living Positive Victoria procedures, work instructions and other guiding documents and information are to comply with this Privacy Policy.

Confidentiality of organisational information is also covered by the Responsible Conduct of staff, Contractors and Volunteers Policy.

Definitions

Privacy refers to keeping certain personal information free from public knowledge and attention and to having control over its disclosure and use.

Confidentiality applies to information given to a person or organisation under an obligation not to disclose that information to others unless there is a statutory requirement or duty of care obligation to do so.

Confidentiality also applies to organisational information which is not to be used or disclosed by board members, staff, volunteers, contractors or students without authorisation.

Personal information refers to any information that may identify a person. Personal information includes a person's name or address, and can include photos, credit history information, bank details, a person's place of employment and any other information that could reasonably identify them.

Health information refers to any information relating to a person's physical, mental or psychological health or disability.

Sensitive information may refer to information including a person's racial or ethnic origin and immigration status, political opinions, religious beliefs or affiliation, trade union or other professional or trade association membership, membership of a political association, sexual identity or practices, gender identity, philosophical beliefs, criminal record and current or former occupation or employment status.

Policy

Living Positive Victoria collects and administers a range of personal information for purposes including but not limited to:

- Administration of membership
- Program administration
- Delivery of services
- Human resource and volunteer management
- Research and evaluation

The organisation is committed to protecting the privacy of personal information it collects, holds and administers.

Some of this information is restricted in its circulation for privacy, ethical or commercial reasons, or to safeguard the intellectual property of the organisation.

As a community service provider, Living Positive Victoria has a special obligation to protect and uphold the right to confidentiality of our clients. All employees, volunteers, students, board members and contractors are required to follow the confidentiality procedure.

Living Positive Victoria recognises the essential right of individuals to have their information administered in ways which they would reasonably expect – protected on one hand, and made accessible to them on the other. These privacy values are reflected in and supported by our core values and philosophies and are also reflected in our Privacy Policy, which is compliant with the following legislation:

- Privacy Act 1988 (Commonwealth)
- Privacy and Data Protection Act 2014 (Victoria)
- Health Records Act 2001 (Victoria)

- Fair Work Act 2009 (Commonwealth)

All Living Positive Victoria employees, contractors, volunteers and members of the board will adhere to the following privacy principles inherent in the above legislation:

- Australian Privacy Principles (Commonwealth) ('APP')
- Health Privacy Principles (Victoria) ('HPP')
- Information Privacy Principles (Victoria) ('IPP')

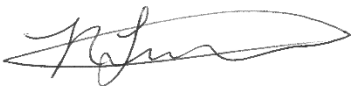
These principles are summarised in the Privacy Procedures. Collectively, these Acts, and the privacy principles therein, underpin how Living Positive Victoria manages the personal, health and sensitive information the organisation holds or that has been disclosed to Living Positive Victoria employees, contractors, volunteers and members of the board.

Living Positive Victoria is bound by laws which impose specific obligations when it comes to handling information. The organisation has adopted the following principles contained as minimum standards in relation to handling personal information.

Living Positive Victoria will

- Collect and use only information which the organisation requires for its primary function;
- Ensure that stakeholders are informed as to why we collect the information and how we administer the information gathered;
- Use and disclose personal information or health information only with the person's explicit and informed written consent;
- Store personal information securely, protecting it from unauthorised access; and
- Provide stakeholders with access to their own information, and the right to seek its correction.

Authorisation



Rick Fiedler
Board Secretary
April 2018

Privacy and Confidentiality Procedures

Procedure number	32	Version	2
		Approved by EO on	April 2018
Responsible person	CEO	Review date	April 2020

Responsibilities

Living Positive Victoria’s Board is responsible for developing, adopting and reviewing this policy.

Living Positive Victoria’s CEO is responsible for the implementation of this policy, for monitoring changes in privacy legislation, and for advising on the need to review or revise this policy as and when the need arises.

Privacy Principles

Living Positive Victoria privacy procedures reflect the key privacy principles outlined in the *Health Records Act 2001* (Victoria) (Health Privacy Principles), the *Privacy and Data Protection Act 2014* (Victoria) (Information Privacy Principles) and the *Privacy Act 1988* (Commonwealth) (Australian Privacy Principles). Full versions of these Principles are provided respectively in these Acts.

Collection

Living Positive Victoria will:

- Only collect information that is necessary for the performance and primary function of Living Positive Victoria.
- Notify stakeholders about why we collect the information and how it is administered.
- Notify stakeholders that this information is accessible to them.
- Collect personal information from the person themselves wherever possible.
- If collecting personal information from a third party, be able to advise the person whom the information concerns, from whom their personal information has been collected.
- Determine, where unsolicited information is received, whether the personal information could have been collected it in the usual way, and then if it could have, it will be treated normally. (If it could not have been, it must be destroyed, and the person whose personal information has been destroyed will be notified about the receipt and destruction of their personal information).

Use and Disclosure

Living Positive Victoria will:

- Only use or disclose information for the primary purpose for which it was collected or a directly related secondary purpose.
- For other uses, Living Positive Victoria will obtain written consent from the affected person.
- In relation to a secondary purpose, use or disclose the personal information only where:
 - a secondary purpose is related to the primary purpose and the individual would reasonably have expected us to use it for purposes; or
 - the person has consented; or
 - certain other legal reasons exist, or disclosure is required to prevent serious and imminent threat to life, health or safety.
- Provide all individuals with access to personal information except where it is a threat to life or health or it is authorized by law to refuse and, if a person is able to establish that the personal information is not accurate, then Living Positive Victoria must take steps to correct it. Living Positive Victoria may allow a person to attach a statement to their information if Living Positive Victoria disagrees it is inaccurate.
- Where for a legal or other reason we are not required to provide a person with access to the information, consider whether a mutually agreed intermediary would allow sufficient access to meet the needs of both parties.
- Make no charge for making a request for personal information, correcting the information or associating a statement regarding accuracy with the personal information.

Storage

Living Positive Victoria will:

- Implement and maintain steps to ensure that personal information is protected from misuse and loss, unauthorized access, interference, unauthorized modification or disclosure.
- Before Living Positive Victoria discloses any personal information to an overseas recipient including a provider of IT services such as servers or cloud services, establish that they are privacy compliant. Living Positive Victoria will have systems which provide sufficient security.
- Ensure that Living Positive Victoria's data is up to date, accurate and complete.

Destruction and de-identification:

Living Positive Victoria will:

- Destroy personal information once is not required to be kept for the purpose for which it was collected, including from decommissioned laptops, storage devices and mobile phones.
- Change information to a pseudonym or treat it anonymously if required by the person whose information Living Positive Victoria holds and will not use any government related identifiers unless they are reasonably necessary for our functions.

Data Quality

Living Positive Victoria will:

- Take reasonable steps to ensure the information Living Positive Victoria collects is accurate, complete, up to date, and relevant to the functions we perform.

Data Security and Retention

Living Positive Victoria will:

- Only destroy records in accordance with the organisation's Records Management Policy.
- Take reasonable steps to protect the information it holds from misuse, loss, unauthorised access, modification or disclosure

Openness

Living Positive Victoria will:

- Ensure stakeholders are aware of Living Positive Victoria's Privacy Policy and its purposes.
- Make the Privacy Policy freely available in relevant publications and on the organisation's website.

Access and Correction

Living Positive Victoria will:

- Ensure individuals have a right to seek access to information held about them and to correct it if it is inaccurate, incomplete, misleading or not up to date.

Unique Identifiers

Living Positive Victoria will not:

- Apply unique government related identifiers (such as a Medicare number) to individuals.

Anonymity

Living Positive Victoria will:

- Give individuals the option of using a pseudonym or not identifying themselves when engaging with the organisation where this is lawful and practicable. Full members must supply their full name and address, in compliance with the Associations Incorporation Reform Act 2012 (Victoria)

Transborder Data Flows

Living Positive Victoria will:

- Ensure that any personal or sensitive information transmitted outside Victorian state borders is subject to the same protection afforded to personal or sensitive information held within Victoria.

Sensitive Information

Living Positive Victoria will:

- Only collect sensitive information necessary to carry out a primary function of the organisation, and only with the person's consent. Sensitive information includes information relating to a person's:
 - racial or ethnic origin and immigration status
 - political opinions
 - religious beliefs or affiliation
 - trade union or other professional or trade association membership
 - membership of a political association
 - sexual identity or practices
 - gender identity
 - philosophical beliefs
 - criminal record, that is also personal information

Making information available to other organisations

Living Positive Victoria can:

- Release information to third parties only where it is authorised by the person concerned and recorded in a material form

Procedures

The following section provides guidance on best practice day-to-day management of information in order to:

- Comply with legislative and compliance frameworks.
- Promote a privacy aware culture.

Handling personal Information

Personal information may only be accessed and used for a valid work purpose. When handling personal information:

- confirm recipient details before sending faxes or emails
- always store any hard copies of confidential information that you are not using in a secure cabinet or room
- be aware of your surroundings and people nearby
- limit taking hard copy information away from secure sites
- secure information when travelling e.g. in briefcase, folder etc
- dispose unneeded copies of information securely
- ensure the information is available to people who need to access it.

Sharing Personal Information

Personal information may be shared only:

- when a formal agreement exists in relation to information or data sharing between parties
- in circumstances permitted under the Privacy and Data Protection Act.

To minimise the risk of unauthorised disclosure staff will:

- check with their manager before sharing confidential information if they are unsure
- not use Internet-based file sharing software to share confidential information (e.g. BitTorrent, Dropbox).

When sharing information with authorised persons via email staff will:

- ensure all confidential information is attached to the email in a password protected zip folder
- enable encryption where available
- not include confidential information in the subject line or body of the email
- not send information to or from free web-based email accounts such as Gmail, Hotmail or Yahoo!
- not share or discuss confidential information on social networking applications such as Facebook and Twitter.

Work Environment

Work environments should be clear of personal information when unattended. Staff will:

- not leaving documents containing confidential information unattended on photocopiers, fax machines or printers
- Lock their computer's screen when leaving it unattended
- Only print documents that contain personal or sensitive information when absolutely necessary
- Store portable storage devices and hard copies containing confidential information in a secure drawer or cabinet, not on your desk.

Information Disposal

Ensure record retention requirements have been met prior to the disposal of any business information.

When disposing of personal information staff will:

- Place unneeded working documents or copies of information in secure bins or adequate shredders.
- Ensure any electronic media including computers, hard drives, USB keys etc are sanitised when no longer required.

Visitors

To help minimise the risks to the security of personal information staff will:

- ensure all visitors are registered at reception
- be aware of unaccompanied people who are not known to the organisation
- notify the Business Manager or the CEO if they believe an unauthorised person is present on premises.

Portable Storage Devices

To minimise the information security risks associated with using portable storage devices staff will:

- only use encrypted portable storage devices to store personal information
- avoid storing personal information on portable storage devices, where possible
- secure portable storage devices when unattended e.g. lock in a drawer
- be careful of what they say and information they view in public
- report lost or stolen portable storage devices immediately to their manager.

Restriction

Living Positive Victoria will place restrictions on the information it holds when the information:

- concerns the privacy of its members, clients, staff or volunteers;
- is commercial in confidence;
- requires protection to safeguard the intellectual property of the organisation.

Staff dealing with restricted material will be instructed in the recognition of material falling under these headings.

Identification

Any information on which restrictions have been placed shall, as far as possible, be clearly identified on the document or file. Where categories of information, rather than individual documents, are restricted this restriction will be conveyed to staff and volunteers dealing with this information.

Protection

All staff, board members, contractors and volunteers of the organisation are required to sign a confidentiality agreement (see Appendix A).

Clients have access to information about their rights regarding confidentiality, including their right to complain if they feel there has been a breach, and their right to access their information and make corrections

Training

Living Positive Victoria will:

- ensure all employees, volunteers, board members and contractors are informed of their obligations under the Living Positive Victoria Confidentiality Policy.

Reporting Privacy Incidents

Under service agreement clause 17.3(i), funded organisations must immediately notify the Department of Health and Human Services (the Department) when becoming aware of a breach or possible breach of the organisation's obligations under the *Privacy and Data Protection Act 2014* or the *Health Records Act 2001*. This applies to breaches by the organisation (or any person acting on the organisation's behalf) of information that it is funded by the department to manage.

In addition, where a data breach is likely to result in serious harm to any individuals whose personal information is involved in the breach, Living Positive Victoria is required to report the breach under the Notifiable Data Breaches (NDB) scheme under Part IIIC of the *Privacy Act 1988*.

Examples of situations from which incidents may arise include:

- accidental download of a virus onto an agency computer
- accidental disclosure of clients email addresses in a group email
- discussing or sharing of personal information on a social networking website such as Facebook
- loss or theft of a portable storage device containing personal information
- non-secure disposal of hard copies of personal information (i.e. placing readable paper in recycle bin or hard waste bin)
- documents sent to the wrong fax number or email address
- documents sent to a free web-based email account such as Yahoo!, Gmail or Hotmail.

Privacy incidents can occur due to accidental or deliberate actions. They may result from human error or technical failures, and apply to information in any form, whether electronic or hard copy.

Privacy Incident Reports are made using the online form provided by the Department of Health and Human Services, available at: <https://feedback.dhhs.vic.gov.au/layout.html#/privacy>

Privacy incidents must be reported within one business day.

To complete the online form the reporting staff member must know where, when and who was involved in the privacy incident. They also need to provide details of the information that was disclosed, the status of that information and what actions have been undertaken to manage the incident.

A privacy breach that impacts a client may also need to be reported as a client incident under CIMS as well as through a privacy incident report.

To determine if a data breach needs to be reported under the Notifiable Data Breaches (NDB) Scheme to comply with the *privacy Amendment (Notifiable Data Breaches) Act 2017*, follow the guidelines in the Data Breach Response Plan in Appendix A.

Related Documents

- Staff Recruitment Policy
- Employment References Policy
- Information Security Policy (to be written)
- Information Asset Governance Policy (to be written)
- Responsible Conduct of Staff, Contractors and Volunteers Policy
- Confidentiality Agreement (need correct title)

Authorisation



Suzy Malhotra
Acting Chief Executive Officer
April, 2018