

Client information sharing

Guidance for alcohol and other drug (AOD) workers

This document is intended to provide guidance to alcohol and other drug (AOD) workers on information sharing processes for voluntary and forensic clients. All clinicians should follow a best practice approach as set out in this guidance, which is based on recommendations from the Victorian Commissioner for Privacy and Data Protection. This guidance does not cover situations where client information sharing is required in order to respond to an identified immediate risk of harm to self or others.

Following a best practice process

Step 1. Understand the authorising environment

- The 'authorising environment' refers to the consent statements (where consent is required) and legislation that explain the circumstances in which AOD workers can and must share information about a client. Ideally, this step should take place before a request is received for information.
- AOD workers should ensure that conversations with clients regarding information sharing explain the limitations of consent, as it relates to information sharing e.g. situations in which AOD clinicians are legally obligated to share information with another organisation.
- See page 2 for more information on the legislation and regulations that may be relevant to information sharing in AOD.

Step 2. If a request is received, make sure all key information for the request is provided

- **Who** is requesting the information and where are they from?
- **What** type of information is being requested?
- **Why** is the information being requested?
- **What** is the authorising environment for the request? (see legislation and regulations on page 2)
- Does it meet the relevant **thresholds** or **purposes** for sharing information?

Step 3. Undertake a risk assessment

- A risk assessment should consider whether information sharing is proportionate to the purpose of using the personal information, and necessary for that outcome. Things to consider include:
 - Is the information sharing **necessary, proportionate, timely** and **secure**?
 - What are the risks related to not sharing the information? Are there potential risks to individuals, children or the wider community?

Step 4. Seek further advice if necessary

- Ask your team leader, line manager or your organisation's legal team for advice.

Step 5. If you decide to share information

- Make sure you follow appropriate documentation and record-keeping requirements.
- If you are required to share information on a regular basis (e.g. for forensic clients), use templates where possible.

Authorising environment

The below table lists key legislation and regulations that may be relevant to information sharing in AOD treatment. The following is not an exhaustive list and providers should seek to clarify if there are further legislative or information sharing requirements, relevant to their respective clients and organisations.

Where there are no specific provisions in the Act relevant to a particular circumstance, information sharing must be consistent with other relevant legislation such as the *Privacy and Data Protection Act 2014* and the Health Privacy Principles contained in Schedule 1 of the *Health Records Act 2001*.

What is the scenario?	Key legislation and regulations	Relevance of the legislation and possible context of requests	References for further information
AOD service delivery - General	<ul style="list-style-type: none"> • <i>Privacy and Data Protection Act 2014</i> • <i>Health Record Act 2001</i> • <i>Health Services Act 1988</i> • <i>Charter of Human Rights and Responsibilities Act 2006</i> • <i>Disability Act 2006</i> • <i>Alcohol and other Drug Dependent Persons Act 1968</i> • <i>Drugs, Poisons and Controlled Substances Act 1981</i> • <i>Information Privacy Act 2000</i> • <i>Severe Substance Dependence Treatment Act 2010</i> 	<p>The legislation listed provides the key information sharing requirements which are relevant to the majority of health service providers involved in AOD treatment.</p> <p>Generally, these Acts protect the need for client consent prior to information sharing, usually gained through a consent form used by service providers.</p> <p>Such forms should notify clients that their information may be shared with other agencies, for the purposes of delivering care. They should also explain situations where confidentiality must be breached in response to a serious threat to the public or an individual.</p>	<ul style="list-style-type: none"> • http://www.legislation.vic.gov.au/ • https://www2.health.vic.gov.au/
Bail	<ul style="list-style-type: none"> • <i>Bail Act 1977</i> 	<p>Changes to the <i>Bail Act 1977</i> through the <i>Bail Amendment (Stage One) Act 2017</i> and <i>Bail Amendment (Stage Two) Act 2018</i>, mean that a bail decision-maker (when considering the release of an accused on bail), must make also make enquiries as to whether the accused is subject to either:</p> <ul style="list-style-type: none"> • a family violence intervention order; or • a family violence safety notice. 	<ul style="list-style-type: none"> • http://www.legislation.vic.gov.au/

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Corrections and sentencing	<ul style="list-style-type: none"> • <i>Sentencing Act 1991</i> • <i>Sentencing and Other Acts (Amendment) Act 2011</i> • <i>Corrections Act 1986</i> • <i>Corrections Regulations 2011</i> • <i>Corrections Amendment Act 2014</i> • <i>Justice Legislation Miscellaneous Amendment Bill 2018</i> 	<p>The legislation and regulations listed stipulate the information sharing provisions relevant to those involved in the criminal justice system, referred to as 'forensic' AOD clients.</p> <p>AOD service and treatment providers may be asked for information through an Information Request by the Serious Offenders Coordination Team (SOCT) at DHHS. These information requests may be used to assist in the development of a Case Services Plan (CSP) which is required for each individual subject to these Orders and for any issues associated with service provision.</p>	<ul style="list-style-type: none"> • http://www.legislation.vic.gov.au/
Post Sentence Scheme (sex offenders, serious violent offenders) subject to a Supervision Order, Intervention Order or Detention Order	<ul style="list-style-type: none"> • <i>Serious Offenders Act 2018</i> 	<p>In addition to the above mentioned legislation and regulations relevant to corrections and sentencing, there are additional information sharing requirements for serious offenders i.e. an offender that has committed a crime defined under Schedule 2 of the <i>Serious Offenders Act 2018</i> - e.g. Murder or Manslaughter.</p> <p>Further information is available in sections 284 and 332 of the <i>Serious Offenders Act 2018</i>.</p>	<ul style="list-style-type: none"> • http://www.legislation.vic.gov.au/
Child protection and wellbeing	<ul style="list-style-type: none"> • <i>Children, Youth and Families Act 2005</i> • <i>Child Information Sharing Scheme Ministerial Guidelines 2018</i> • <i>Children Legislation Amendment (Information Sharing) Act 2018</i> • <i>Part 6QA of the Child Wellbeing and Safety Act</i> 	<p>Part 3.2 of the <i>Children, Youth and Families Act</i> prescribes when and how information may be shared when there is a significant concern about the wellbeing of a child.</p> <p>The recently introduced Child Information Sharing Scheme expands circumstances where prescribed organisations and professionals can share information with each other to promote the wellbeing or safety of children. The new Child Link IT system will provide the infrastructure for this information sharing process.</p>	<ul style="list-style-type: none"> • http://www.cpmanual.vic.gov.au/our-approach/privacy/information-sharing • https://www.vic.gov.au/childinfosharing

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Family Violence	<ul style="list-style-type: none"> • <i>Family Violence Protection Act 2008</i> • <i>The Family Violence Information Sharing Scheme (the scheme) created by Part 5A of the Family Violence Protection Act 2008</i> • <i>The Family Violence Protection (Information Sharing and Risk Management) Regulations 2018.</i> • <i>Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM).</i> • <i>Family Violence Protection Amendment (Information Sharing) Act 2017</i> 	<p>The Family Violence Information Sharing Scheme was created by Part 5A of the <i>Family Violence Protection Act 2008</i> and the <i>Family Violence Protection (Information Sharing and Risk Management) Regulations 2018</i>.</p> <p>The scheme authorises a select group of prescribed information sharing entities (ISEs), as identified in part 2 of the regulation, to share information between themselves for the purposes of family violence risk assessment and risk management.</p> <p>The scheme does affect existing legislation that allows information to be shared, such as privacy or child protection legislation.</p> <p>ISEs do not require the consent of a perpetrator or alleged perpetrator when sharing information under the Scheme. However, consent is required to share information about an adult victim survivor, unless sharing such information is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare.</p>	<ul style="list-style-type: none"> • https://www.vic.gov.au/familyviolence/family-safety-victoria/information-sharing-and-risk-management.html • Family Violence Risk Assessment and Risk Management Framework (MARAM)
Complex Needs clients involved in the Multiple and Complex Needs Initiative (MACNI)	<ul style="list-style-type: none"> • <i>Human Services (Complex Needs) Act 2009</i> 	<p>Service providers identified in a client's MACNI care plan may be asked for personal or health related information.</p> <p>Information may be sought by the Secretary of the Department of Health and Human Services, or other service providers identified in the client's care plan, for the development of care plans and any issues associated with service provision.</p> <p>Clients consent to information sharing across providers when they consent to the MACNI service.</p> <p>More information is provided in sections 14, 17</p>	<ul style="list-style-type: none"> • https://providers.dhhs.vic.gov.au/multiple-and-complex-needs-initiative

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		and 23 of the <i>Human Services (Complex Needs) Act 2009</i> .	

The Victorian Commissioner for Privacy and Data Protection have a range of helpful information available about best practice in relation to information sharing available at: <https://ovic.vic.gov.au/privacy/for-agencies/guidance-and-resources/>

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