#### Museums Victoria Policy Statement

**Privacy Policy**

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| Policy Register Number | DOC/17/4544 |
| Date of Approval  Responsible Executive | 01 March 2024  Chief Financial Officer |
| Responsible Officer | Head, Strategic Information and Compliance |
| Review Cycle  Date of next review | Two-Yearly  01 March 2026 |

1. **Policy Objective/Intent**

Museums Victoria acknowledges our obligations under the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* in the protection of the privacy of individuals who engage with Museums Victoria, including past and present Workers and visitors. This policy provides the basis for the establishment of Museums Victoria’s practices in relation to handling Personal or Health se within the meaning of those Acts.

1. **Policy Statement**

Museums Victoria respects the privacy of individuals and will comply with *the Privacy and Data Protection Act* *2014* (including the Information Privacy Principles), the *Health Records Act 2001* (including the Health Privacy Principles)andthe *Freedom of Information Act 1982* in the collection, use, storage, management, provision of Access to, amendment of and disposal of Personal or Health Information. All Workers are responsible for ensuring personal and Health Information is managed in accordance with this policy. Workers must ensure they only Access Information that is reasonably required for, and consistent with, the performance of their role.

Personal Information is defined in the *Privacy and Data Protection Act 2014* but can generally be summarised as Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the Information or opinion. This may include, for example, financial Information such as credit card or bank account details or fax file numbers. It does not include Health Information, which is governed similarly by the *Health Records Act 2001*.

Health Information is defined in the *Health Records Act 2001* but includes Information or an opinion about an individual’s physical, mental or psychological health or disability or the provision of health services to an individual. This may include, for example, certain Information contained in incident reports (e.g. Information about physical or psychological injuries) or Information received about a visitor’s or staff member’s disability.

1. **Key Policy Principles**

3.1 Museums Victoria will only collect Personal or Health Information where necessary to undertake our functions as defined by the *Museums Act 1983*. When we collect Personal or Health Information, we will take reasonable steps to ensure we only collect the Personal or Health Information that is necessary for the particular function and that individuals are aware of:

* who is collecting their Information (i.e. Museums Victoria), how to contact us, and the fact that they may gain Access to their Information,
* the purpose of collecting the Information,
* if the Information would usually be disclosed to other individuals or organisations, who those individuals or organisations are,
* any law that requires the particular Information to be collected (where relevant), and
* the main consequences, if any, for the individual if the Information is not provided.

While we endeavour to collect Personal or Health Information directly from the relevant individuals (rather than from third parties) wherever it is reasonable and practicable to do so, we will also require any third parties who collect Personal or Health Information on our behalf to take these steps.

* 1. Museums Victoria generally collects Personal or Health Information where relevant and necessary for the following functions:
* staff and volunteers – recruitment and employment
* visitors – surveillance in Museum public spaces using Closed-circuit Television (CCTV) to ensure public safety and safety of collections, feedback and comments, participation in market research and evaluation, education, community programs, public enquiries;
* health and safety
* Museum Members
* marketing, media and communications
* fundraising and related engagement activities
* museum governance and operations
* stakeholder management
* collections, research and exhibitions, and
* commercial, including online transaction services to purchase goods or services.

3.3 Museums Victoria will limit the accessibility of Personal and Health Information to only those Workers who need the Information to carry out our functions.

3.4 Museums Victoria will collect Personal and Health Information in a lawful, fair manner. Where practicable and reasonable, Personal or Health Information will be obtained directly from the individual concerned. If we collect Information about an individual from someone else we will still endeavour to ensure the individual is aware of the matters in 3.1.

3.5 Museums Victoria will only use or disclose Personal or Health Information for the purpose it was collected for, or as otherwise permitted in accordance with the Information Privacy Principles or Health Privacy Principles (as the case may be), or as permitted by the *Victorian Data Sharing Act 2017*.

3.6 Museums Victoria will ensure that any third parties it discloses Personal or Health Information to are contractually obliged to handle that Information in an appropriate manner.

3.6 To protect Personal or Health Information from misuse, loss or unauthorised Access, modification or disclosure, Museums Victoria will provide secure Information storage systems and procedures including Acess control for the management of both physical and electronic Information. Museums Victoria complies with the Victorian Protective Data Security Standards in order to protect Personal and Health Information. If Museums Victoria becomes aware than an individual’s Personal or Health Information has been inappropriately handled, Museums Victoria will take all reasonable steps to inform the individual of the incident, and will take appropriate action to ensure that such a breach does not occur again. Museums Victoria may also report incidents to the Office of the Victorian Information Commissioner.

3.7 Information will be De-identified or disposed of securely, once it is no longer needed, according to approved retention and disposal authorities under the *Public Records Act 1973*.

* 1. Museums Victoria may use De-identified Information for evaluation and research purposes, and in some cases, disclose De-identified Information to third parties.
  2. Museums Victoria will use our best efforts to ensure the Personal and Health Information we hold is accurate, complete and up-to-date. Museums Victoria relies on individuals to provide accurate and current Information, and to notify us when details change.
  3. Museums Victoria will maintain procedures specifying how individuals may apply to Access, correct or update Personal or Health Information about them. Where lawful and reasonable, Museums Victoria will provide individuals with Access to the Personal or Health Information we hold about them. If Access would infringe upon the privacy of others, or there are other issues with providing Access, the Freedom of Information request process may be required.
  4. Museums Victoria will not assign to or use Unique Identifiers for individuals unless it is necessary to carry out one of our organisational functions efficiently or if it is otherwise required by law.
  5. Where lawful and practicable, Museums Victoria will give individuals the option to conduct their transactions with Museums Victoria anonymously.
  6. If Museums Victoria transfers Personal or Health Information outside Victoria we will comply with the legislative requirements relating to trans-border data flows.

##### Museums Victoria will obtain Consent from the individual prior to collecting Sensitive Information and/or Health Information about them unless required by law. Where Consent is required and the Information relates to a Child, Museums Victoria will generally seek Consent from the Child’s Parent where appropriate.

##### Museums Victoria will appoint a Privacy Officer to assist with ongoing compliance with the *Privacy and Data Protection Act 2014* and *Health Records Act 2001,* including ensuring that all Workers take a proactive approach to protection of privacy,and that privacy impact assessments are conducted when appropriate. The Privacy Officer’s contact details will be made publicly available.

##### Alleged breaches of this policy will be investigated by Museums Victoria under the supervision of the Museums Victoria Privacy Officer. Incidences of employee misconduct will be managed through the discipline process outlined in Museums Victoria Staff Enterprise Agreementand the Museums Victoria Unsatisfactory Work Performance Policy. The Victorian Information Commissioner may investigate alleged breaches of the *Privacy and Data Protection Act 2014*, whereas the Health Complaints Commissioner may investigate alleged breaches of the *Health Records Act 2001*. Either Commissioner may refer a complaint to the Victorian Civil and Administrative Tribunal.

##### Key Definitions

* 1. ‘Access’ is provision of a copy of the Iinformation or the provision of supervised access to the Information.
  2. ‘Child’ means a person under the age of 18 years.
  3. ‘Consent’ means express or implied Consent. Express Consent is best collected in writing. Implied Consent is where Consent can reasonably be inferred from a person’s conduct or actions.
  4. ‘De-identified Information’ means Information from which an individual’s identity is not apparent and could not reasonably be ascertained (for example, the Information could not reasonably be reverse-engineered or paired with other available Information to identify the individual).
  5. ‘Health Information’ means Health Information asdefined in the *Health Records Act 2001.* It includes information or an opinion about an individual’s physical, mental or psychological health, or disability, or the provision of health services to an individual. It may include, for example, certain Information contained in incident reports (e.g. Information about physical or psychological injuries) or Information received about a visitor’s or staff member’s disability.
  6. ‘Health Privacy Principles’ means the Health Privacy Principles set out in Schedule 1 of the *Health* *Records Act 2001.*
  7. ‘Information’ means Personal Information or Sensitive Information, including financial Information.
  8. ‘Information Privacy Principles’ means the Information Privacy Principles set out in Schedule 1 of the *Privacy and Data Protection Act 2014*.
  9. ‘Parent’ in relation to a Child, includes –

1. the father or mother of the Child;
2. a step-parent;
3. an adoptive parent;
4. a foster parent;
5. a guardian;
6. a person who has custody of the Child.
   1. ‘Personal Information’ means personal Information as defined in the *Privacy and Data Protection Act 2014*. There are some obvious examples of Personal Information, such as an individual’s name, address and gender. Personal Information can also include financial Information, such as credit card or bank account details, photos, videos, and even Information about what an individual likes, their opinions and where they work. Information does not have to include the individual’s name to be Personal Information. For example, in some cases, an individual’s date of birth and post code may be enough to identify them.
   2. ‘Personal and Health Information’ means both Personal Information and Health Information, and ‘Personal or Health Information’ means either Personal Information or Health Information, or both, as the context requires.
   3. ‘Sensitive Information’ means Personal Information about an individual's:

(a) racial or ethnic origin; or

(b) political opinions; or

(c) membership of a political association; or

(d) religious beliefs or affiliations; or

(e) philosophical beliefs; or

(f) membership of a professional or trade association; or

(g) membership of a trade union; or

(h) sexual preferences or practices; or

(i) criminal record.

* 1. ‘Unique Identifiers’ means an identifier (usually a number) assigned to an individual uniquely to identify that individual for the purposes of the operations of the organisation but does not include an identifier that consists only of the individual’s name.
  2. ‘Workers’ is defined as an individual who carries out work in any capacity, including employees, contractors, subcontractors, volunteers, students, Curators Emeritus, Honorary Associates and Board members.

##### Related Policies

* Cyber Security Policy
* Information, Records and Archives Management Policy
* Information Security Policy
* Intellectual Property Policy
* Open Access Policy
* Security and Resilience Policy
* Unsatisfactory Work Performance Policy
* Use of Information and Communications Technology Resources Policy

1. **Associated Documents, Guidelines and Procedures**

* Code of Conduct for Victorian Public Sector Employees
* Museums Victoria Staff Enterprise Agreement
* Museums Victoria Website Privacy Statement
* Museums Victoria Information and Document Protection Procedure
* Museums Victoria Information Security Incident Procedure
* Museums Victoria Information Sharing Procedure
* Museums Victoria Use of CCTV Data Procedure (in development)
* Museums Victoria Procedures for Managing Applications for Information under the *Freedom of Information Act 1982*
* Standing Directions of the Minister for Finance 2018 under the *Financial Management Act 1994*
* Victorian Protective Data Security Standards

1. **Legislation**

* *Data Sharing Act 2017* (Vic)
* *Electronic Transactions Act 2000* (Vic)
* *Financial Management Act 1994* (Vic)
* *Freedom of Information Act 1982* (Vic)
* *Health Records Act 2001* (Vic)
* *Museums Act 1983* (Vic)
* *Occupational Health and Safety Act 2004* (Vic)
* *Privacy and Data Protection Act 2014* (Vic)
* *Public Interest Disclosures Act 2012* (Vic)
* *Public Administration Act 2004* (Vic)
* *Public Records Act 1973* (Vic)