



<b>Policy Name:</b> Privacy	<b>NO.</b> 1.6
<b>Document Owner:</b> Director, Nursing and Clinical Services	<b>Approval Date:</b> 26/04/2022
<b>Approved By:</b> Risk Management and Controlled Documents Committee	<b>Next Review Date:</b> 26/04/2025

## PURPOSE

QEC recognises and respects every person's right to privacy, dignity and confidentiality. This policy outlines QEC's commitment to protect the privacy of health, personal and sensitive information of families and employees

## SCOPE

This policy applies to all QEC employees.

## DEFINITIONS

*Client* - any individual admitted to any of QEC's programs. A client record is created for all admitted clients.

*Employee* refers to a person employed by the Queen Elizabeth Centre (QEC) including students, volunteers casuals and contractors.

*Freedom of Information* - The Victorian Freedom of Information Act 1982 gives consumers the right to request information held by Public Hospitals. The Act gives consumers the right to access documents about their personal information and the activities of government agencies along with the right to request that incorrect or misleading information held by QEC may be amended or removed.

*Health information* - Information or opinion about a person's physical, mental or psychological health or disability that is also personal information. This includes information or opinion about a person's health status and medical history.

*Health Privacy Principles* apply to health information collected and handled in Victoria by the Victorian public sector and the private sector.

*Health Records Act 2001 (Vic)* protects the privacy of individuals' health information. It regulates the collection and handling of health information.



*Information Privacy Principles* - The 10 Information Privacy Principles are the core privacy law in Victoria and set out the minimum standard for how Victorian public sector bodies manage personal information.

*Office of the Victorian Information Commissioner (OVIC)* - Independent regulator with combined oversight of information access, information privacy and data protection.

*Personal information* - Recorded information or opinion, whether true or not, about a person whose identity is apparent, or can reasonably be ascertained, from the information. The information or opinion can be recorded in any form.

*Privacy* is a human right and information privacy (being the protection of personal information) is a key aspect of this right.

*Privacy and Data Protection Act 2014 (Vic) (PDP Act)* provides for the regulation of information privacy, protective data security, and law enforcement data security to undertake research, issue reports, guidelines and other materials with regard to information privacy (excluding health information).



*QEC Privacy Officer* – QEC has a designated person within an organisation that is responsible for overseeing all ongoing activities related to the development, implementation, maintenance, and adherence to QEC’s policies and procedures relating to privacy, access, and patient health information in compliance with legislation.

*Sensitive information* means information or opinion (that is also personal information) about a person’s racial or ethnic origin, political opinions, religion, philosophical beliefs, sexual preferences or practices, membership of a political association, professional/trade association or trade union, or an individual’s criminal record.

*Subpoena* – A legal document that commands a person or entity to testify as a witness at a specified time and place (at a deposition, trial, or other hearing), and/or to produce documents or other tangible objects in a legal proceeding.

## **POLICY STATEMENT**

QEC is committed to complying with the relevant privacy legislation including the:

- Privacy and Data Protection Act 2014 (Vic) and its 10 Information Privacy Principles
- Health Records Act 2001 (Vic) and its 11 Health Privacy Principles.

QEC seeks to uphold the highest standard of privacy by:

- Protecting a client’s right to privacy
- Creating an environment in which clients are confident that their rights are protected
- Guiding the fair and responsible handling of client information
- Protecting the privacy of information
- Providing individuals with a right of access to their own information.

## **PRINCIPLES**

This Privacy Policy is based on the 10 Information Privacy Principles (IPPs) which are the core of privacy law in Victoria and set out the minimum standard for how Victorian public sector bodies should manage personal information.

The IPPs are contained in Schedule 1 of the *Privacy and Data Protection Act 2014* (Vic) and are available at: <https://ovic.vic.gov.au/wp-content/uploads/2018/07/Guidelines-to-the-IPPs-2011.pdf>. Each principle is detailed below.

### **Principle 1: Collection of Data**

QEC collects a variety of information required to provide services and holistic care to our clients. The type of information collected includes:

- Name
- Contact details
- Date of birth
- Marital status
- Family details - including information about an individual’s next of kin
- Health and medical details
- Medicare number.

QEC will not collect information about an individual unless it is necessary for client care and/or:

- The individual has provided consent
- The information is necessary to providing care and the person is unable to provide consent
- The information is necessary to prevent or lessen a serious and imminent threat to the life, health, safety or welfare of any individual, or a serious threat to public health, public safety or public welfare
- QEC is required to collect the information by law.

When QEC collects information from an individual, QEC employees will inform the individual:



- The reason why QEC is collecting this information and the purpose for which the information is collected.
- How this information can be accessed
- To whom QEC shares information with and the procedure for sharing information
- The main consequences (if any) for the individual if all or part of the information is not provided
- The identity of QEC and how to contact us.

On admission the individual is provided with QEC's 'Privacy and You' brochure that details this information.

### **Principle 2: Use and Disclosure of Data**

QEC only uses and discloses information for the primary purpose for which it was collected or a related secondary purpose. This includes:

- Assessing eligibility and access to our services.
- Adapting services to meet family needs
- Seeking family feedback
- Clinical follow up following service delivery (during and after discharge).

QEC will only disclose information to third parties without the individuals consent, in the following circumstances (see 1.6.1 Information Sharing for more information):

- Sharing information will prevent or minimise serious and imminent harm to the individual or others
- Where the use or disclosure is required by law.

If QEC uses or discloses information where consent is required, without obtaining this consent, this is considered a Privacy Breach. Privacy Breaches are reportable to the Department of Families, Fairness and Housing (DFFH), which has defined processes to follow.

This policy recognises that family information held by QEC may be sensitive. Where an employee has any concerns about a use and disclosure of data they should speak to their manager or QEC Privacy officer.

### **Principle 3: Data Quality**

QEC is committed to ensuring that the information it holds is accurate, complete and up to date. Training and audits are conducted regularly to support this.

### **Principle 4: Data Security (and Data Retention)**

This principle contains two distinct obligations. The first deals with data security, requiring organisations to protect information they hold. The second deals with the disposal of data, requiring organisations to destroy or de-identify information they no longer need.

In relation to data security, QEC:

- Is committed to protecting the information it holds and will implement measures to protect your information from misuse, unauthorised access, change or disclosure
- Will destroy or permanently de-identify information when we no longer need it or it is no longer required to be kept for legal purposes
- Will take reasonable steps to protect the security of your information.

### *Data Breaches*

QEC is required to report all client related privacy breaches to the department within one business day of becoming aware of this. See 1.2.22 Incident Management for more information. . The Privacy Amendment (Notifiable Data Breaches) Act 2017, requires QEC to let the impacted clients know if any of the following have occurred:

- Unauthorised access to or disclosure of client information
- If client information is lost and unauthorised access or disclosure is likely to occur
- If there is reasonable chance that this could cause serious harm, which could include physical, physiological, emotional, economic or reputational harm.



If a data breach occurs the Privacy Officer will be informed and in consultation with QEC Director of Services and Operations will report the breach via: <https://www.oaic.gov.au/privacy/notifiable-data-breaches/> if appropriate.

#### **Principle 5: Openness**

QEC has a written statement about its collection and management of I information. The brochure 'Your Privacy' is provided to all families engaged with QEC services.

#### **Principle 6: Access and Correction of Data**

Clients have the right to seek access to their own information held by QEC. The FOI Act is the primary mechanism for access to and correction of information held by QEC. A freedom of information (FOI) request can be completed by accessing the following: <http://www.qec.org.au/privacy-policy>. Refer 1.6.1 Information Sharing Procedure.

If the client is able to establish that the information held about them is not accurate, complete or up to date, then QEC will take reasonable steps to correct the information. QEC may correct health information about an individual so that it is accurate, however will not delete the information in accordance with the Victorian Health Records Act, even if it is inaccurate.

#### **Principle 7: Unique Identifiers**

QEC assigns unique identifiers to all clients admitted to any of the QEC Programs. The assignment of identifiers is necessary to enable QEC to carry out its functions efficiently.

Individuals accessing QEC programs may also have a separate external Individual Health Identifier (IHI), such as identifier related to their My Health Record. QEC does not currently have a process for accessing My Health Record or using external Individual Health Identifiers (IHI).

#### **Principle 8: Anonymity**

Wherever lawful and practicable QEC will provide individuals with the option of non-identifying themselves.

#### **Principle 9: Trans Border Data Flows**

QEC will only transfer information outside of Victoria if that data transfer conforms to the reasons and conditions outlined in the Act.

#### **Principle 10: Sensitive Information**

QEC will only collect sensitive information if:

- The individual gives consent
- Required or authorised under law
- Necessary to lessen or prevent a serious threat to the life or health of any individual
- Necessary for legal or equitable claims.

In addition to these Information Privacy Principles, QEC also complies with the following additional principles from the Health Records Act 2001:

- HPP 10 - Transfer or closure of the practice of a health service provider
- HPP 11 - Making information available to another health service provider (see 1.6.1 Information Sharing and 1.6.2 Consent).

QEC will comply with any lawful and reasonable requests for information from statutory bodies.



### **INFORMATION REQUESTS**

Any enquiries regarding the privacy of information is directed to:

QEC Privacy Officer

The Queen Elizabeth Centre

53 Thomas Street, Noble Park Vic 3174



Email: [privacy@qec.org.au](mailto:privacy@qec.org.au)  
Phone: 03 9549 2777

If the matter is a complaint about the way information was handled, it will be handled as per QEC's 1.4.2 Client Feedback procedure.

## 7. RELATED QEC DOCUMENTS

- 1.2.1 Admissions
- 1.2.1 Appendix 5 - Your Privacy (information sheet)
- 1.2.22 Incident Management
- 1.4.2 Client Feedback
- 1.6.1 Information Sharing
- 1.6.2 Consent
- 1.6.2 Appendix 1 - Media Release Agreement
- 4.3.2 Corporate Records Management
- 4.3.3 Client Records Management

## RELATED LEGISLATION AND EXTERNAL DOCUMENTS

- Healthcare Identifiers Act 2010 (Cth)
- Privacy Act 1988 (Cth)
- Health Complaints Act 2016 (Vic)
- Health Records Act 2001 (Vic)
- Health Records Regulations 2012 (Vic)
- Health Services (Conciliation and Review) Act 1987 (Vic)
- Privacy and Data Protection Act 2014 (Vic)
- Freedom of Information Act 1982 (Cth)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Statutory Guidelines on Research 2002 (Vic)
- The Privacy Amendment (Notifiable Data Breaches) Act 2017 (Vic)
- Statutory Guidelines on Transfer or Closure of the Practice or Business of a Health Service Provider 2002 (Vic)

## KEY WORDS

Privacy, freedom of information, information sharing, privacy principles, consent, data, identifiers.

## APPENDICES

None.

## DOCUMENT HISTORY

	Date	Summary of Purpose/Changes
Document Created:	Prior to 2017	N/A
Reviewed:	26/03/2020	One addition has been made to incorporate legislative requirements about complying with statutory bodies.
Reviewed:	26/04/2022	Additional information added clarifying that QEC does not currently use external individual healthcare identifiers or have process for access My Health Record.