

Privacy Policy

1. Purpose:

Inner Melbourne Community Legal (IMCL) recognises the importance of, and is committed to protecting and upholding, people's right to privacy and the protection of their personal information.

IMCL will ensure that:

- it meets its legal and ethical obligations as an employer and service provider in relation to protecting the privacy of clients, service users, employees and volunteers
- clients are provided with information about their rights regarding privacy
- clients, staff and others are provided with privacy when they are being interviewed or discussing matters of a personal or sensitive nature, and
- all staff and volunteers understand what is required in meeting these obligations.

2. Scope

This Privacy Policy explains how IMCL collects, holds, uses, discloses and otherwise handles confidential and personal information.

IMCL will follow the guidelines of the *Australian Privacy Principles*¹ in its information management practices. Under our Panel Deed with Victoria Legal Aid, IMCL must also comply with the *Privacy and Data Protection Act 2014* (Vic).

The collection and use of data is also governed by funding agreements, including the [National Legal Assistance Partnership Agreement 2020-2025 \(NLAP\)](#) which provides the bulk of our funding and which requires us to collect and report on data using the Community Legal Assistance Services System (CLASS). The type of data collected through CLASS is outlined in the related [National Legal Assistance Data Standards Manual](#) (see service user data) and in part 3 of this policy.

Information about the additional steps that IMCL takes to protect personal and confidential information in the event of a data breach is located in IMCL's ICT Resources policy.

2.1 Access to the policy and understanding how it is implemented

IMCL understands that service users and others have a right to understand how their privacy is protected through the implementation of this policy, and practically how their personal information is collected, used and stored. A copy of this policy is available to any service user or organisation on request so that service users can understand their rights.

To help service users and others understand their rights, IMCL will also:

- provide a simplified and plain language version of the policy that is available on our website and can be provided in hard/ soft copy on request in the form attached at **Appendix A**.
- communicate with service users at different points in time in their interactions with IMCL about what personal information is collected:
 - during any initial intake query (by using a telephone script)
 - when they meet with a lawyer (through the application of the IMCL intake guidelines)
 - as part of any written engagement letter
- confirm either verbally or in writing how personal or confidential information that relates to employees and other services is shared

¹ www.oaic.gov.au/agencies-and-organisations/app-guidelines/

2.2 Confidentiality

Together with our privacy obligations, as lawyers under the Legal Profession Uniform Law an IMCL lawyer must not disclose any information which is confidential to a client.² An IMCL lawyer may only disclose information which is confidential if:

- the client expressly or impliedly authorises disclosure;
- the solicitor is permitted or is compelled by law to disclose the information;
- the solicitor discloses the information in a confidential setting, for the sole purpose of obtaining advice in connection with the solicitor's legal or ethical obligations;
- the solicitor discloses the information for the sole purpose of avoiding the probable commission of a serious criminal offence;
- the solicitor discloses the information for the purpose of preventing imminent serious physical harm to the client or to another person, or
- the information is disclosed to the insurer of the solicitor, law practice or associated entity.³

Any client authorisation must be written, either in the form of a written authority or in a file note.

2.3 Definitions

What is personal information?

Personal information in general terms means any information that can be used to personally identify someone. It includes information or an opinion, whether true or not and whether recorded in a material form or not, about an individual who is identified or is reasonably identifiable.

Personal information does not include anonymous information, aggregated or de-identified information.

What is sensitive information?

Sensitive information is a subset of personal information and is given a higher level of protection. Sensitive information is defined in the Privacy Acts and includes information or an opinion about an individual's racial or ethnic origin; political opinions; membership of a political association; religious beliefs or affiliations; philosophical beliefs; membership of a professional or trade association; membership of a trade union; sexual preferences or practices; or criminal record.

3. Collection of personal information by IMCL

The type of personal information collected by IMCL will depend on the nature of a person's interaction with IMCL, however IMCL may collect the following types of personal information:

- identification and contact details, such as name, mailing or street address, email address, telephone number, age or birth date, and gender
- family type, country of birth, year of arrival in Australia, language spoken at home
- financial information, such as housing, occupation, financial status and income
- sensitive information, such as racial or ethnic background, sexual orientation, criminal history and health information, English proficiency, need for an interpreter, or disability status
- other personal or sensitive information not covered above which may be collected as a result of providing a client with legal advice such as their experience of family violence or sexual assault
- details of the services a client has requested or enquired about, or services provided, together with any additional information necessary to respond or deliver those services
- any additional information relating to a client that a client provides in-person, by telephone, in writing or via email.

² Rule 9.1, Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015

³ Ibid Rule 9.2

3.1 How does IMCL collect your personal information?

IMCL collects personal information directly from an individual unless it is unreasonable or impracticable to do so. This may occur in a range of ways including in person; by letter, fax, email or telephone; on hard copy forms; through the website; and from referring or third parties (with consent).

3.2 What happens if IMCL cannot collect personal information?

The nature of IMCL's work means that, generally, it is not possible to provide services or deal with individuals in an anonymous way. IMCL may be provided with personal information or may request person information in order to assess whether that service user is eligible for advice or assistance from IMCL. If a service user does not provide IMCL with personal information as described above, then IMCL may not be able to provide legal services to a service user because we will not be able to ensure that we have avoided any potential conflict of interest.

3.3 For what purposes does IMCL collect, hold, use and disclose personal information?

IMCL collects, holds, uses and discloses personal information for the following purposes:

- to assess whether a client is eligible for assistance
- to search whether a client has accessed assistance from IMCL previously
- to provide legal services, referral or arrangement of non-legal assistance to clients
- to answer enquiries and provide information or advice about IMCL's services
- for planning, law reform, quality control and for the creation of anonymous case studies where any personal or identifying information is removed
- to update records
- for use in monitoring and assessing IMCL's services, including as part of peer review of service, and reporting to funding providers
- to process and respond to any complaints, and
- to comply with any law, rule, regulation, lawful and binding determination.

IMCL may also collect, hold, use and disclose personal information for other purposes explained at the time of collection or which are required or authorised by or under law for which the individual has provided their consent.

3.4 To whom may IMCL disclose your information?

IMCL may disclose your personal information to:

- employees, volunteers, contractors or service providers for the purposes of providing legal services, fulfilling requests by clients, and to otherwise provide services to individuals including IT systems administrators, financial counsellors, process servers, couriers, data entry service providers, electronic network administrators, and professional advisors such as accountants, solicitors, barristers and consultants.
- Victoria Legal Aid for legally aided matters as part of our Panel Deed
- any organisation for any authorised purpose with the individual's consent⁴
- other third parties where required by law.⁵

⁴ Wherever possible, written consent should be obtained via an authority and placed on the file. If verbal consent is provided, this will be recorded in a file note and placed on the file.

⁵ See exceptions in Rule 9.2 of the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015.

3.5 Data reporting to Commonwealth and State Governments and bodies

Under NLAP the State is required to collect “Legal Assistance Service data” which is provided to the Commonwealth. This data is used by them for policy, analysis, research, and statistical purposes and under NLAP it explicitly states that the information will not be used for compliance, regulatory, national security or law enforcement purposes.⁶

“Legal Assistance Service Data” is derived from information entered into CLASS but it does not include private or confidential information. It includes:

- **Client demographic information:**
 - Unique client identifier
 - Where the service is (location)
 - Age provided as age brackets
 - Gender
 - Interpreter required
 - Family violence indicator
 - Financial disadvantage indicator
 - Aboriginal and Torres Strait Islander status
 - Disability status
 - Main language at home
- **Service information:**
 - Service type
 - Date of service
 - Primary law type
 - Problem type
 - Activity type
 - Service results
 - Hearing type
 - Court/ Tribunal type
 - Estimated time spent

3.6 Accessing and correcting personal information

An individual may request access to any personal information IMCL holds about them at any time by contacting IMCL on 9328 1885 or at info@imcl.org.au. Where IMCL holds information that an individual is entitled to access, we will try to provide the information in a timely way.

There may be instances where IMCL cannot grant access to the personal information held.⁷ For example, IMCL may need to refuse access if granting access would interfere with the privacy of others or if it would result in a breach of confidentiality. Due to guidelines for the retention and destruction of client files, information also may be destroyed after seven years and so may no longer be available.⁸ If that happens, IMCL will provide written notice outlining the reasons for the decision and available complaint mechanisms.

⁶ D8, schedule D, National Legal Assistance Partnership Agreement.

⁷ See exemptions in Principle 12.3 of the Australian Privacy Principles 2014.

⁸ Also see, the Law Institute of Victoria’s fact sheet ‘File ownership, retention & destruction guidelines’.

If an individual believes that personal information IMCL holds about them is incorrect, incomplete or inaccurate, then they may request us to amend it. IMCL will then consider if the information requires amendment. If we agree that it requires amendment, we will take reasonable steps to correct that information. If IMCL does not agree that there are grounds for amendment, then the individual may request that IMCL add a note to the personal information stating that the relevant individual disagrees with the information.

If IMCL corrects personal information about an individual and has previously disclosed that information to another agency or organisation that is subject to the Privacy Act, the individual may ask IMCL to notify that other entity and IMCL will take reasonable steps to do so, unless this would be impracticable or unlawful. IMCL does not however have scope to correct or amend information held by other entities.

3.6 Security and integrity of personal information

IMCL takes reasonable steps to ensure that personal information we collect, use and disclose is accurate, up-to-date and complete and relevant. IMCL also takes reasonable steps to ensure personal information is protected from misuse and loss and from unauthorised access, modification or disclosure.

IMCL may receive unsolicited personal information or confidential documents from a service user, referrer or third party as part of a referral or to otherwise obtain legal assistance from IMCL, but IMCL may not be able to provide any advice or ongoing assistance to a service user. This may be because of a conflict of interest or the service user may not be eligible for assistance according to IMCL eligibility guidelines, in which case any personal information (including documents) that is provided to IMCL will be destroyed and will not be retained. IMCL may provide the service user or referrer with information services or secondary consultation if they cannot obtain any other form of assistance from IMCL, which can include information provided in response to their enquiry about:

- the law, legal systems and processes, and/ or
- legal and other support services to assist in the resolution of legal and related problems.

In which case the only information that is retained and collected is limited to the details of the staff member and/ or organisation that attempted to make the referral or obtained the secondary consultation, together with a copy of or outline of any information provided.

4. Complaints

If an individual believes that their privacy has been breached, they can contact the Director of Legal Practice.

IMCL treats all complaints confidentially. IMCL will try to resolve all complaints in a timely, fair and reasonable way. The process for complaints is set out in our Client Complaints policy.

Although we recommend that complaints are made to IMCL internally first, depending on the nature of the complaint, complaints can also be made to:

Victorian Legal Services Commissioner
Website: www.lsbvc.vic.gov.au
Phone: 1300 796 344

Office of the Australia Information Commissioner
Website: www.oaic.gov.au
Phone: 1300 363 992

Victoria Legal Aid
Website: www.legalaid.vic.gov.au
Phone: (03) 9280 3789

Victorian Ombudsman

Website: www.ombudsman.vic.gov.au/complaints/

Phone: (03) 9613 6222

Victims of Crime Commissioner

Website: www.victimsofcrimecommissioner.vic.gov.au/victims/make-a-complaint

Phone: 1800 010 017

Changes to the Policy

IMCL may amend this Privacy Policy from time to time. The current version will be posted on IMCL's website and a copy may be obtained upon request.

5. Documentation

Reviewing and approving this policy			
Frequency		Person responsible	Approval
Bi-annual		Director of Legal Practice	CEO
Policy review and version tracking			
Current Version	Date Approved	Approved By	Next Review Due
1.1	4 May 2022	CEO	4 May 2024

Annexure A – Privacy policy explained

IMCL is committed to protecting service user's privacy. As lawyers we have legal and ethical obligations to protect your personal and confidential information.

If you contact us seeking legal help but we cannot assist you, then your personal information is not retained or stored by us.

If you are a client of IMCL receiving advice and/ or casework assistance from an IMCL lawyer, then we cannot disclose any information obtained about you to anyone that is not an employee, volunteer or service provider of IMCL. There are some exceptions to this, we can disclose information about you if:

1. You authorise us to do so
2. We are compelled by law to disclose it, or
3. The information is no longer confidential.

IMCL may request that you sign a written authority to permit us to discuss your legal matter with a third party such as a case worker or medical practitioner. Even where you have given us consent to discuss your legal matter with a third party, we will only do so where we think it is in your best interests.

In order to provide you legal assistance, IMCL will ask you to disclose personal information. Apart from your name, contact details and the name of the other person involved in your legal matter, provision of further information is voluntary. However, if you do not provide us with further information, it may limit the degree of assistance we can give you.

In addition to providing you with legal assistance, your personal information is collected as a requirement of IMCL receiving government funding, for reporting, monitoring and improving our services and for seeking further funding. This may include personal information about your income or where you were born for example, but any other identifying information such as your name, date of birth and address, is not used or accessed by others without your permission. This personal information is de-identified and anonymized, and is only provided as general statistics about IMCL's services.

Your rights

If you want more information, you can ask us:

- What information we collect and how we store it
- The reasons why we ask for this information
- How we will use or disclose your information
- How you can access or correct your information

For more information, ask for a copy of our privacy policy.