

PRIVACY POLICY

Applies to: Staff and volunteers
Specific responsibility: Principal Lawyer

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POLICY STATEMENT

Inner Melbourne Community Legal (**IMCL**) recognises the importance of, and is committed to protecting and upholding, the privacy and rights of individuals IMCL deals with in relation to 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 and others
- 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.

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

IMCL is subject to the Australian Privacy Principles under the *Privacy Act 1988* (Cth).

Under our Panel Deed with Victoria Legal Aid, IMCL must comply with the *Privacy and Data Protection Act 2014* (Vic).

IMCL is also required to comply with privacy obligations under one or more funding agreements.¹

IMCL will follow the guidelines of the *Australian Privacy Principles* in its information management practices.

Confidentiality

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 disclose information which is confidential if:

- the client expressly or impliedly authorises disclosure (9.2.1);
- the solicitor is permitted or is compelled by law to disclose;
- 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;

¹ Commonwealth's National Legal Assistance Data Standards Manual and the National Partnership Agreement (NPA) data reporting requirements.

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

- 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

At IMCL, the authorisation under 9.2.1 must be written, either in the form of a written authority or in a file note.

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 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 Act 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.

What personal information does IMCL collect and hold?

The type of information collected 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
- 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, criminal history and health information, English proficiency, need for an interpreter, or disability
- other personal or sensitive information not covered above which be collected as a result of providing a client with legal advice
- 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

³ Ibid Rule 9.2

- any additional information relating to a client that a client provides in-person, by telephone, in writing or via email.

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).

What happens if IMCL can't collect personal information?

The nature of IMCL's work is that, generally, it is not possible to provide services or deal with individuals in an anonymous way. For example, if a client does not provide IMCL with the personal information described above IMCL may not be able to provide legal services to you, or to provide information about services.

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 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
- 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.

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, 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

Accessing and correcting personal information

An individual may request access to any personal information IMCL holds about them at any time by contacting IMCL. 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.⁶ 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. If that happens, IMCL will provide written notice outlining the reasons for the decision and available complaint mechanisms.

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.

Complaints

If an individual believes that their privacy has been breached, they can contact the Principal Lawyer.

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 Managing Complaints Policy.

If an individual is not satisfied with IMCL's response, a complaint can be made to the Office of the Australian Information Commissioner (by telephone: 1300 363 992, by email

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.

⁶ See exemptions in Principle 12.3 of the Australian Privacy Principles 2014. Also see, the Law Institute of Victoria's fact sheet 'File ownership, retention & destruction guidelines'.

enquiries@oaic.gov.au or by post: GPO Box 5218 Sydney NSW 2001), or other regulatory bodies such as the Legal Services Commissioner or the Health Complaints Commissioner.

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.

Contacting IMCL

For questions about this Privacy Policy, as well as any concerns contact the Principal Lawyer.

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.