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| Business practice manualChapter 2: Information privacyNovember 2017 |

Department of Health

# Revision history

Department of Health

| Version | Amended section | Effective | Details |
| --- | --- | --- | --- |
| 1.0 |  | November 2017 | Incorporation of version control tableAccessible format |

More information

To find out about housing options visit the [Housing website](http://www.housing.vic.gov.au) <http://www.housing.vic.gov.au> or contact your local [Housing Office](http://www.housing.vic.gov.au/contact-a-housing-office) <http://www.housing.vic.gov.au/contact-a-housing-office>.

To receive this publication in an accessible format contact Housing Practice and Complex Support <housing.practicesupport@dhhs.vic.gov.au>.

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# Definitions

| Term | Definition |
| --- | --- |
| Centrelink | Commonwealth Government Agency through which the Department of Family and Community Services administers services to those requiring assistance. |
| Client | Any person who utilises a service provided by the Department, for example tenants, applicants on the waiting list, Bond Loan Scheme applicants. |
| External agencies | Any Federal, State or local government department, organisation, company or charity outside of the Department of Human Services.  |
| Freedom of Information Act | The Freedom of Information Act 1982 (Victoria), which provides all persons with the right to request access to information in the possession of Victorian Government Departments, including Department of Human Services, and other, prescribed agencies. |
| Household Member | Any person included on a Departmental rebate for a Departmental property. Household members can include tenants, dependants, spouse of tenants, residents, spouse of residents and dependants of residents. |
| Next of kin | The nearest blood relative of a living person; or in the case of a deceased person, their executor original or by representation or temporary administrator. If the estate is discharged, the nearest living blood relative.  |
| Registered mail | A form of mail service where a franked receipt is obtained from the Post Office containing details of date, time and place of posting. |
| Resident | A member of a household who is not party to the tenancy agreement and lives with a tenant in a Departmental rented property for three or more nights per week. The resident must be included in the household rental rebate application and their income and assets included in the rental rebate assessment. |
| Tenant | A person who has signed a tenancy agreement with the Director of Housing and who therefore has all the tenancy rights and responsibilities as specified in the tenancy agreement. |
| Tenant in community managed housing | A person who has signed a tenancy agreement with a community agency and who therefore has all the tenancy rights and responsibilities as specified in the tenancy agreement. |

# Purpose and scope

## Purpose

This chapter outlines the process for individuals and organisations to access client information from The Department of Human Services (the Department) records and the procedure to follow when dealing with these requests. It also outlines the requirements of Department staff in seeking to access personal information about clients using Centrelink’s Confirmation eServices such as Income Confirmation.

## Scope

The policy and procedures in this chapter, in conjunction with the Housing Assistance Charter, applies to all clients of Human Services, the Police, media and any other individual or organisation that request client information from the Department.

## How to use this manual

The procedures should be read in association with the policy, and where appropriate, referral should be made to other Departmental manuals and documents to ensure the intent of the policy is achieved when administering procedures.

# Information privacy policy

## Introduction

Personal information is any information that allows an individual to be identified. It can appear in any form and be recorded in any medium. For example, written or electronic records, a photograph or video recording. Personal information may be either immediately identifiable (a client’s name), or potentially identifiable. For example, where further processes are required to determine the person’s identity, such as an application number.

Providing services to clients of the Department involves gathering and storing a large amount of personal and often highly sensitive information. The Department has a responsibility to protect this information and ensure that it is handled appropriately and only used for the appropriate purpose.

The Department may receive requests for information about clients from other Government Departments, other sections of the Department, the client, the client’s family members, external agencies or organisations. External organisations may include the Police, Centrelink, legal and debt collection agencies, tenant groups or support agencies.

The Department may also seek information about clients from Centrelink via Centrelink’s Confirmation eServices.

The Information Privacy Principles (IPP) set out statutory obligations for handling personal information, which apply to all public sector organisations including funded service providers and their staff (such as Transitional Housing Managers). They cover all stages of the information cycle, from collection to use, release and disposal of personal information. These principles ensure that privacy is protected in a consistent manner across the Department. The IPPs are reflected in The Department's Privacy Policy Statement, which adopts the legislative principles as minimum standards.

Individuals or agencies may also request more general statistical information about a group of clients. Examples could include age and marital status of applicants on a waiting list, languages spoken by clients living on a particular housing estate, or the number of households paying market rent.

In line with IPP 2, the Department will only access or disclose personal information about clients if:

* the client has provided consent
* the client requests the information, either for their own purposes or to be forwarded to a third party
* it is required to prevent or lessen a serious and imminent threat to the health, safety and welfare of an individual or the public
* it is required by law
* it is required by or for a law enforcement agency for a prescribed purpose as set out in IPP 2 1(g).

The Department does not access or disclose information about clients in any other situation.

If a client has a grievance about information being accessed or disclosed without their consent (or any other privacy complaint), they may take their concerns to the Victorian Privacy Commissioner, or if the information is health (including disability) information, they may complain to the Health Services Commissioner, as outlined in the ***Health Records Act 2001 (HRA).***

This chapter covers the release of client information to the client themselves, and to other internal and external agencies.

## Other legislation

The ***Information Privacy Act 2000 (IPA)*** governs the way in which personal information held by agencies is controlled where this is not health information. The ***HRA*** governs the handling of health information.

Unless a Government body provides credit, such as the Department’s Home Finance Division, State Governments are not generally bound by the ***Federal Privacy Act 1988***. However, the objectives of the Act are reflected in the IPPs.

It is important to note that where other legislation contradicts privacy law, the other legislation will prevail to the extent of the contradiction. For example if it was proposed to withhold information about a client in accordance with the***IPA***, this could not be withheld from the Ombudsman, where it is required by the ***Ombudsman Act 1973***.

## Release of information to external agencies

### Requests from external agencies

The Department may receive requests from external agencies to provide information about individual clients. The Department usually only releases the information to an external agency where the client has provided their consent in writing. This may be done by completing a **Form of authority to release Information to external agency.** Requests for personal information from external agencies should be made in writing.

Written requests must be on the official letterhead of the agency and must include the:

* official name of the external agency making the request
* name, contact details and address of the client for whom the agency is seeking information
* signature of the client
* name and signature of the officer from the external agency
* date of the request (the client’s signature should not be more than twelve months old)
* information required
* specific purpose for which the information is required
* legal power to obtain the information.

If the client has not authorised the release of personal information and it is not possible to get their consent, the information can only be released in prescribed circumstances, for example if the disclosure is required by law (such as other legislation which empowers the requester to collect the information); or required to prevent or lessen a serious and imminent threat to the health, safety and welfare of a client or the public. For example, where a District Nurse requests the address of a tenant who has changed address and urgently requires medication.

Where information is released without consent, a Letter to Inform Client/Tenant of External Agency Request for Information should be sent to the tenant to inform them that personal information has been released by the Department to the particular external agency. There are some exceptions to this, for example when the information requested is for a law enforcement purpose, or where disclosure would be reasonably likely to raise a serious threat of harm to a person. For example, the client would not be informed if their personal information were released to the Police.

### The department initiated release of information to external agencies

In situations where the Department believes that there is a reasonable ground for which the release of information is necessary to prevent or lessen a serious and imminent threat to the life or the health of a client or another person, the office should contact an appropriate local agency to investigate arranging support. This may be done where it is not possible to get the client’s consent to the release of their personal information.

Once an appropriate support agency is contacted and the circumstances discussed without revealing the identity of the client, the client’s name and address may only be given if the Department and the support agency agree that the client requires assistance and that this is permitted under privacy or other law.

Examples of situations where information is released without the tenant’s consent include:

* A tenant is known to suffer from, or appears to suffer from a mental illness and they are behaving in a way that is putting the lives or health of themselves or others at risk and a Crisis Assessment Team (CAT team) has requested the information
* Where the Department may contact an aged care support service when an elderly tenant is having difficulty maintaining their housing in a reasonably clean and safe condition, or an aged care support service has requested the information to intervene in a hazardous living situation
* The health and safety of children is at risk and Child Protection requests the information.

## Requests from clients and Freedom of Information (FOI)

### Information for the client’s own use

A client may make a written request to access information about them that is held by the Department. A verbal request over the counter is not to be accepted, but staff must assist the client to make a valid request, by providing clear advice about what is required. For example, to ensure the client completes a Tenant Request for Information Form or to refer them to the FOI Unit, as appropriate.

While most requests for access should be referred to the FOI Unit, some information can be released to the client outside FOI in restricted circumstances – this is referred to as ‘informal access’. See Frequently asked questions – MPs, correspondence and FOI

These circumstances are if all of the following apply to that information:

* it is easy to find and retrieve
* it is small in volume
* it is easily separated from other information that may be exempt from release if handled under FOI.

Examples of this would include a rental account statement, or information the client has provided in the past, such as income statements or medical support documentation.

### FOI exemptions from access

Key exemptions include:

* confidential material, protecting information provided in confidence
* other individual’s personal information, protecting the privacy of persons other than the applicant (including for example, family members)
* potentially harmful information which if released could cause a serious threat to life health or welfare, or public health safety or welfare
* law enforcement information, protecting enforcement bodies’ capacity to enforce the law and to protect national security
* investigation information relating to an investigation of possible unlawful activity
* legal proceedings information, protecting documents which would be privileged in court or tribunal matters
* documents prohibited from access under other laws (such as notifier identity, protected under the ***Children and Young Persons (Care and Protection) Act 1989***
* information previously requested by the applicant and released or refused, and there is no reasonable basis for the repeated request.

Naturally client documents held by the Department will often include one or more of these exempt types of information, particularly personal details of other people.

If this applies to the information requested, you must advise the client to make a FOI application.

If the client is a current tenant or applicant any FOI requests should be forwarded to the FOI Unit in that Region.

### Information to be forwarded to external agencies

If a client requests that their information be forwarded to an external agency, the information is generally given to the client so that they may deliver it to the external agency. If the client requests that the information is forwarded by the Department to the external agency directly, the client must provide written permission for the release of information. This can be provided by completing a **Form of Authority to Release Information to External Agency.**

## Requests from other divisions of the department

Information requests from other divisions of the Department, for example, Child Protection, should be requested in writing, including the purpose for which it is required, as well as reference to any relevant legislative power that authorises the release of the information.

## Information required by law

Where the request for information is from an agency that is specifically authorised by legislation, the Department must release the information, even if the client has not given consent.

Generally speaking, the Police, Ombudsman, Local Government, Centrelink, Child Protection, ASIO, Department of Immigration and Multicultural Affairs and the Australian Taxation Office have some relevant legislative authorisation, which apply in relation to specific requests. In most cases, requests must be made in writing, clearly stating the legislative power and relating it to the requested information.

### Subpoenas and summons

Where information is requested through a subpoena, witness summons or summons, it is preferable that the information or file is delivered in person. If this is not possible, it may be sent by courier or by registered mail. Due to the nature of subpoenas and summonses, any queries in regard to such notices should immediately be directed to the Senior Legal Officer, Legal Services Branch Level 20, 50 Lonsdale St, Melbourne, Telephone (03) 9096 9885.

### The police

It is highly recommended that the Police make any request for client or tenant information in writing, **Police Request for Information Form**. Written requests for client information should include the name, rank and contact details of the police officer requesting the information. Responding to requests in writing will ensure that the accuracy of communicated information is maintained. This also provides a hard copy record of the exact information released. Housing staff must verify the identity of the police officer who is requesting the information.

The ***IPA*** does not require Departmental staff to inform clients or tenants when information has been released for law enforcement purposes, or where disclosure would be reasonably likely to raise a serious threat of harm to a person or the public.

### The Ombudsman

The Victorian Ombudsman investigates complaints concerning administrative actions taken by any government department, public statutory body or municipality.

The Ombudsman’s representative informs the Secretary of the Department in writing if a client or tenant makes a complaint, and that an enquiry, investigation or conciliation is required.

The Ombudsman’s representative may contact a Housing Office to make a verbal request for information or to facilitate conciliation. Information may be provided by telephone when it can be confirmed that the request is from the Ombudsman’s representative.

Section 18(3) of the **Ombudsman Act 1973** overrides **Information Privacy Act 2000** restrictions on the release of client information by Departmental staff. Staff from the Ombudsman’s Office may contact individual Housing Offices directly for information.

Housing staff who wish to discuss the procedure for preparing verbal or written responses to Ombudsman requests may contact the Department Ombudsman Review Manager, 50 Lonsdale St Melbourne.

### Local government

Local Government have legislative authority to investigate, prosecute or punish Departmental tenants whose pets are considered dangerous under *the* ***Domestic (Feral and Nuisance) Animals Act 1994 (DAA)****.* A request from Local Government for tenant information must be in writing, stating the legislative power and relating it to the specific information and circumstances. If satisfied that this applies, a Team Manager (TM) may provide the information to the Local Government where they wish to issue proceedings against a tenant whose pet is under investigation.

## Requests for information from the media

Requests for information from all forms of the media including television, radio and the printed press must be referred to the Department Media Unit, Level 21, 50 Lonsdale St, Melbourne, Telephone (03) 9096 8527.

## Departmental requests for information from medical practitioners/ health care providers

Departmental staff are not to request information from or release information to, Medical Practitioners or Health care providers unless one of the prescribed exceptions in the Health Records Act applies. For example, the client has given their written consent, staff reasonably believes there is a serious and imminent threat to the life or health of the client or the public (Refer to [**Information**](#_Release_of_Information) **privacy policy, Introduction**) or the disclosure is required by law.

## Departmental requests for information from employers

It is a breach of the ***IPA*** for Departmental staff to request or release information to a client’s employer without written consent from the client. This includes confirmation or clarification of income details for rental rebate assessment purposes. Departmental staff must request written consent from a client to obtain personal information from their employer.

## Departmental requests for information from Centrelink via confirmation eServices

Centrelink Income Confirmation eServices (eServices) enable a client’s details, including assets and income, to be provided or transmitted electronically to the Department for the purpose of assessing eligibility for housing or bond assistance, or calculating rebated rent.

Departmental staff may only access the Single Service Enquiry facility with the client’s consent. The Department may have obtained a household member’s consent in one of two ways:

* via a signed authority for Centrelink to release customer information to the Director of Housing. Centrelink authority form
* via an implied (passive) consent mail-out processed and action dated of 27 July 2007 or 12 October 2007. All household members in receipt of a Centrelink income were sent a letter advising them that they would automatically be included in the eService. Contacted household members who did not wish to participate in Income Confirmation were advised to complete an Income confirmation withdrawal of consent form.

Centrelink Income Confirmation eServices was introduced to the Department during May 2006. A ‘Y’ flag in HiiP against the client record indicates consent. Centrelink have requested that for auditing purposes, the consent form be printed on green paper.

* a tenant can withdraw consent at any time in writing
* a tenant cannot sign an authority form on another tenant’s behalf
* a staff member cannot access information using another staff member’s login information.

# Information privacy procedures

## Release of information to external agencies

### Requests from external agencies

A request for the release of information regarding a client from an external agency should be in writing. If a verbal request for the release of information is received, ask the agency to make their request in writing. The release of a client’s personal information to an external organisation can only occur when consent has been obtained from the client or when the release meets one of the exceptions as outlined in the ***IPA.***

## Requests from clients

### Information for the client’s own use

Clients must complete a [**Client/Tenant Request for Information Form**](#_Client/Tenant_Request_for), generated from manage enquiry if they wish to access information about them held by the Department. A verbal request is not to be accepted.

Some examples of types of information the Department would commonly release include where it is:

* Information the client has provided in the past. This may include medical support documentation, bank and income statements or rental rebate assessments
* Information that the Department would provide directly to the client in the course of providing services. For example, a letter confirming approval for an Early Housing allocation or a rental account statement.

Frequently asked questions – MPs, correspondence and FOI

All other information requests, such as copies of Victorian Civil and Administrative Tribunal (VCAT) documents, or Tenancy action history including file notes should be directed to the FOI Unit.

When it has been determined that it is appropriate according to the above criteria, release the information directly to the client. Create a file note against the tenancy stating the reason for the decision.

### Information to be forwarded to an external agency

A **Form of Authority to Release Information to External Agency** must be completed if the client has requested personal information to be forwarded to an external agency, or if aspects of their current housing situation need to be discussed with another agency, for example, when making a referral.

Examine the client’s tenancy or application record to determine if a Form of Authority has been signed to allow communication with that particular agency, and whether a new form is required. It is strongly advised that a new Form of Authority should be signed if the copy attached to the client is more than the expiry date. If a new Form of Authority is required, ask the client to specify in writing the information that can be released and complete the Form of Authority which can be generated via Manage Contact or via the application or tenancy Service ID.

If the client has signed the Form of Authority update the agency expiry details or add the agency to the client support/contact tab.

Some agencies such as Centrelink will accept a request for release of information on a Form of Authority that has previously been used, and may not require a new Form of Authority for every information request made.

## Release of information due to a threat to health or safety

### Where contact with an agency is initiated by the department

If staff reasonably believe that there is a serious and imminent threat to the health, safety and welfare of an individual or the public, that would be prevented or lessened by disclosing client information, they should discuss the details of the case with a Housing Services Manager (HSM) or Team Manager (TM) to seek approval to make a referral, without the clients consent, to an external agency.

Together with the HSM or TM, determine the most appropriate agency or agencies to contact. Check the client’s application or tenancy record in HiiP to determine if they have a current support worker or agency, or have had one in the past.

If the HSM/HM or TM determines that it is appropriate to make contact with an external agency, telephone the appropriate agency.

Before giving the agency the client’s personal details, discuss the issues in order to confirm that it is appropriate for the agency to become involved in the case. If the agency confirms that they are able to assist, provide them with the name and address of the client.

Discuss with the agency the actions they may take and what further involvement the Department may have in the case.

Create a file note in HiiP via Manage Enquiry against the client record and detail the conversation.

### Where contact is initiated by the external agency

When an external agency makes a written request for personal information about a client as they believe that the client’s health or safety are at risk, discuss the request with the HSM or TM then inform the agency of the outcome and release details if permitted.

Write a letter to the client informing them that personal information was requested, **Letter to Inform Client/Tenant of External Agency Request for Information** and whether or not it was disclosed. Give reasons in the letter of what actions were taken. Generated and edit the letter from Manage Enquiry against the client, application or tenancy record. If the External Agency wishes to organise access to the property, refer to the **Access to Properties Chapter** in the Tenancy Management Manual.

* Create a file note in HiiP via manage enquiry against the client, application or tenancy record, detailing the circumstances that required the information to be disclosed (or not disclosed as the case may be).

## Requests for information required by law

When a written request is received that refers to the release of information under a specific piece of legislation, ensure that the direct legislative reference has been included in the request document.

Request the TM Contact Legal Services Branch to confirm that the legislation quoted on the request authorises the external party access to the client’s information without their consent. Create a file note in HiiP against the client, application or tenancy record detailing the circumstances of the request and attach the request to the appropriate record.

Housing staff are not required to inform clients or tenants when information has been released for law enforcement purposes, or where disclosure would be reasonably likely to raise a serious threat of harm to a person or the public.

### Responding to subpoenas or summons

If a subpoena or summons has been received ensure that the notice has conduct money (conduct money is the cost of the public transport fare to attend the court hearing) and has been issued by a court. If either of these requirements are not met the notice can be refused.

Immediately contact the Senior Legal Officer, Legal Services Branch, Level 20, 50 Lonsdale St, Melbourne, Telephone (03) 9096 9885 for advice.

If the subpoena is requesting documentation held against a client, tenancy or application record and there are no objections from Legal Services Branch to its reproduction, print all; documentation, ensure that the documents are securely bound the parcel and ensure it has a copy of the subpoena on top of the generated documents. Create a file note in HiiP against the client, application or tenancy record stating copies of documentation were generated and were these were sent too.

Deliver the package to the appropriate court official indicated on the subpoena. It is preferable for the documentation to be delivered in person. However, if this is not possible, it may be sent by registered mail or by courier.

Upon delivery of the documentation, to the appropriate court official, confirm with them that they possess the address of the Department office responsible for the documentation (this should be clearly noted on a covering page). This ensures that the recipient understands where to return documents.

### Requests from police

If a verbal request for information is received from the police, advise the officer to make the request in writing, clearly stating the legislative power for obtaining the information and relating it to the requested information. The police officer may complete the proforma **Police Request for Information Form** and return fax to the Housing Office. Generate the form from Manage Enquiry in HiiP recording the conversation with the Police office or recording the letter received.

The written request should include the name, rank and contact details of the police officer making the request for information. Discuss the request with a HSM or TM, or refer to Legal Services Branch to confirm that the requesting officer has included the appropriate legislative authorisation. If it is appropriate to release the information, respond to the request in writing.

Create a file note in HiiP against the client, application or tenancy record via Manage Enquiry detailing the circumstances and the outcome of the request and attach to document to the record.

### Requests from the ombudsman’s representative

If a verbal request for client information is received from the Ombudsman’s representative, verify that the call is from that office.

Ask them to provide you with a return telephone number (preferably the main phone number) return the call and ask for the representative. Provide them with the requested information - a written request quoting the appropriate legislative authorisation is not required from the Ombudsman’s representative.

Create a file note in HiiP against the client, application or tenancy record via Manage Enquiry. In the file note state the circumstances of the request and attach the document to the appropriate record.

### Requests from local government

If a member of the Local Government requests the Department tenant information in order to issue proceedings against the tenant for their pet’s dangerous behaviour, the request must be in writing. The request must quote the ***DAA*.**

If a member of the Local Government requests information for any other purpose, staff may not release the information unless a prescribed exception applies. For example the client consents, or the information is required to prevent or lessen a serious and imminent threat to the health, safety and welfare of a client or the public (Refer to **Release of information to external agencies**).

Create a file note in HiiP against the client, application or tenancy record via Manage Enquiry.

## Requests for statistical data or non-identifying information

Any requests for statistical, non-identifying or personal data regarding Departmental clients, for example, the address of all tenants speaking Spanish on a particular estate, should be directed to Corporate Planning and Performance Unit, 50 Lonsdale St, Melbourne.

## Requests from the media

Media organisations requesting information regarding either clients or Departmental policy and procedures should be handled by the Media Unit. Obtain the journalist or reporter’s name and telephone number, and advise them that a staff member from the Media Unit will contact them.

Immediately contact the Department Media Unit, 50 Lonsdale St, Melbourne, to inform them of the request. Ensure that the relevant HSM is also notified.

## Departmental requests for information from medical practitioners / health care providers

[Special Accommodation Requirements Form](http://www.dhs.vic.gov.au/__data/assets/word_doc/0005/641462/Application-for-Special-Accommodation-Requirements.doc)

Further information is required from a Medical Practitioner or Health Care Provider in order to assess housing requirements, a consent form, or Form of Authority must be completed by the client. Departmental staff must obtain this prior to seeking clarification from the health care provider (a Form of Authority has been attached to the **Special Accommodation Requirements Form**).

The consent form must be attached to the client record and a support/contact record created in HiiP against the client.

If the client refuses to sign the consent form, the information is not to be requested from the Practitioner/Health Care provider, unless there is a serious and imminent threat to the health, safety, welfare of the individual or the law requires it.

## Departmental requests for information from an employer

A consent form must be completed by the client prior to any request being directed to an employer.

The consent form must be attached to client’s record and an entity created when you discuss the wages with the client’s employer.

If the client refuses to sign the consent form, the information is not to be requested by Departmental staff.

## When requests for information are denied

If there is a request from an external agency where the information cannot be released, advise the agency that the information cannot be released without consent being given by the client.

Create a file note in HiiP against the client, application or tenancy record detailing the circumstances of the request and attach any documentation to the appropriate record.

If there is a written request from an external agency where the information cannot be released, send a letter of the request,**Letter to Inform Client/Tenant of External Agency Request for Information**, as well as a letter generated from HiiP via Manage Enquiry to the client’s last known address stating that the request for information was received from an external party, however, no information was disclosed.

Attach a copy of the request to the client on the appropriate client, application or tenancy record.

If the external agency requesting the information asks what action has been taken, advise them that the request has been directed to the last known address of the client and that further information cannot be given.

Housing staff are not required to inform clients or tenants when information has been released for law enforcement purposes, or where disclosure would be reasonably likely to raise a serious threat of harm to a person or the public.

## Departmental requests for information from Centrelink via confirmation eServices

Check that a completed consent form is attached to the client’s file prior to making a request via Confirmation eServices. The consent form must be attached on the client’s file and a ‘Y’ note recorded in HiiP. If there is no consent, an ‘N’ flag is recorded in HiiP and the information is not to be requested by Departmental staff.

Where a person is appointed as correspondence nominee (for example Power of Attorney) for a Centrelink client they would be able to sign the authority on behalf of the client.

Where a person is acting on behalf of someone, (for example a lawyer), but is not a nominee, Centrelink would need a client’s consent to process the form, however this could be collected by the person acting on the client’s behalf and attached to the consent form.

The **Authority for Centrelink to release customer information to the director of housing form** is always attached to the client record in HiiP.

Some tenants will have the ‘Y’ flag in HiiP against their client record but will not have a green **Income Confirmation Form** or **Authority for Centrelink to Release Customer Information to the Director of Housing Form** against their client record or against the service that was provided. In such instances, it is likely their implied (passive) consent has been recorded. This can be verified by checking for a passive consent mail-out action date of 27 July 2007 or 12 October 2007 against the clients Tenancy Service ID.

When retrieving information from Centrelink via the eServices, housing staff must use their own login and not access the service on behalf of another staff member.

Ensure a client’s withdrawal of consent is actioned immediately in HiiP by changing the consent indicator to ‘N’ against the client record.

# Appendix 1

## The information privacy principles

Following is a summary version of the key Information Privacy Principles (IPP) from the ***Information Privacy Act 2000*,** as published by the Victorian Privacy Commissioner. This does not set out the full set or form of the Principles, and are intended for quick reference only. The Principles in full can be found in the ***Information Privacy Act 2000*.**

1. Collection: Collect only personal information that is necessary for performance of functions. Advise individuals that they can gain access to personal information.
2. Use and Disclosure: Use or disclose personal information only for the primary purpose for which it was collected or a secondary purpose the person would reasonably expect. Use for secondary purposes should have the consent of the person. Some important interests, such as protecting health and safety or a legal requirement, can justify use and disclosure without consent. Otherwise, seek consent.
3. Data Quality: Make sure personal information is accurate, complete and up-to-date.
4. Data Security: Take reasonable steps to protect personal information from misuse, loss, unauthorised access, modification and disclosure.
5. Openness: Document clearly expressed policies on management of personal information and provide the policies to anyone who asks.
6. Access and Correction: Individuals have a right to access and seek correction of their personal information. Access and correction will be handled mostly under the Victorian Freedom of Information Act except where informal access is appropriate, or where the information is in the possession of a funded agency not subject to FOI – in which case access and correction will be handled in accordance with privacy legislation.
7. Unique Identifiers: A unique identifier is usually a number assigned to an individual in order to identify the person for the purposes of the organisation’s operations. Tax File Numbers and Driver’s Licence Numbers are examples. Unique identifiers can facilitate data matching. Data matching can diminish privacy. IPP 7 limits the adoption and sharing of unique numbers.
8. Anonymity: Give individuals the option of not identifying themselves when entering transactions with organisations where that would be lawful and feasible.
9. Trans border Data Flows: Basically, if your personal information travels, your privacy protection should travel with it. Transfer of personal information outside Victoria is restricted. Personal information may be transferred only if the recipient protects privacy under standards similar to Victoria’s IPPs.
10. Sensitive Information: The law restricts collection of sensitive information like an individual’s racial or ethnic origin, political views, religious beliefs, sexual preferences, membership of groups or criminal record.

# Appendix 2

For information about the ***Information Privacy Act*:**

**Victorian Privacy Commissioner**

121 Exhibition St

Melbourne Vic 3000

Telephone: 1300 666 444

Website: [Office of the Victorian Information Commissioner](https://www.cpdp.vic.gov.au) <https://www.cpdp.vic.gov.au>

DHHS website: [Department of Health and Human Services](https://www.dhhs.vic.gov.au) [<](http://www.dhhs.vic.gov.au)https://www.dhhs.vic.gov.au>

## The department’s privacy policy statement

* 1. The Department of Human Services is committed to protecting the privacy of personal information which we and our funded service partners handle. Personal information is information which directly or indirectly identifies a person.
	2. We collect and handle a range of personal information for the purposes of providing services or to carry out our statutory functions. We also collect some personal information for planning, funding, monitoring and evaluating our services and functions, but where practicable we remove identifying details from information used for these purposes.
	3. In accordance with our responsibilities, the services and functions which we and our service partners provide relate primarily to the areas of health, community support and the protection of public health and safety. They include in particular primary and community health, public hospitals, mental health, disability, early childhood, family support, child protection, juvenile justice, housing, homelessness support, and public health.
	4. We recognise that the nature of these services means that much of the information we handle is particularly sensitive.
	5. We recognise that privacy principles protect personal information both as a matter of individual right, and to support the public interest in ensuring Government can collect information necessary for its services.
	6. We recognise the essential right of individuals to have their information handled in ways which they would reasonably expect - protected on the one hand, and made accessible to them on the other.
	7. These privacy values are reflected in and supported by our corporate values: collaborative relationships, professional integrity, quality, responsibility and client focus.
	8. We are bound by the Victorian privacy laws, the Information Privacy Act 2000 and the Health Records Act 2001, as well as other laws which impose specific obligations in regard to handling information.
	9. We have adopted the respective Privacy Principles contained in the Victorian privacy laws as minimum standards in relation to handling personal information.
	In broad terms this means that we:
* collect only information which we need for a specified primary purpose
* ensure that the person knows why we collect it and how we will handle it
* use and disclose it only for the primary or a directly related purpose, or for another purpose with the person's consent (unless otherwise authorised by law)
* store it securely, protecting it from unauthorised access
* retain it for the period authorised by the ***Public Records Act 1978*;**
* provide the person with access to their own information, and the right to seek its correction.
	1. For information in our possession, this right is available through the ***Freedom of Information Act 1982*\***. For information in the possession of our service partners, this right is available through privacy legislation\*\*.

This policy is complemented by high-level Departmental Guidelines intended to assist the Department and its funded service partners to put the Policy and law into practice.

\* For information about Freedom of Information requests, tel. 9616 9910

\*\* For information about making a request under privacy legislation, contact the relevant funded service.

### Explanatory Notes

* + 1. The Health Records Act 2001 applies to health information, which is broadly defined to include information and opinion relating to physical and mental health, disability and aged care services. Much of the Department's functions, and those of our service partners, requires us to handle information, which is covered by this legislation.
		2. The Information Privacy Act's Information Privacy Principles apply to all other types of personal information.
		3. The full set of Principles in the respective privacy laws are published on the [Victorian Government](http://www.legislation.vic.gov.au/) website [http://www.legislation.vic.gov.au/ (2000 Acts include the Information Privacy Act, 2001 Acts include the Health Records Act); copies can be purchased from Information Victoria telephone 1300 366 356.

# Appendix 3

Letter to inform client/tenant of external agency request for information



# Appendix 4

Client/tenant request for information



# Appendix 5

## Frequently asked questions – correspondence and FOI

### Correspondence

**Will staff breach privacy by disclosing personal information in briefing notes used to prepare response letters?**

Staff should collect, use or disclose only what is necessary for the purpose of the reply.

By writing to the Minister of Housing or the Department, the correspondent has given implied consent for the Minister or Department staff to be informed of all relevant and necessary personal information it holds in order to provide a detailed briefing note and response letter.

**How do staff respond to a correspondent who claims to be a ‘representative’ of the client?**

If the representative is authorised by law, for example, is a court appointed guardian such as State Trustees, staff must ensure that there is evidence of this status on file.

If no evidence of guardianship or power of attorney status exists, staff should request evidence that the client has given consent for information to be released to the correspondent.

If the representative is not authorised by law, for example, is a family member or friend, staff must request proof such as a signed consent form as evidence that the client has given consent to the release of their information to the representative.

Staff should not assume that family members have the consent of clients to act on their behalf.

While the above procedures may seem bureaucratic and unnecessary, the Minister / the Department is required by law to take reasonable steps to protect personal information from misuse and unauthorised disclosure.

**What should staff consider when responding to a correspondent who is making allegations about a Departmental tenant?**

When drafting a reply, staff should not release any personal information about the tenant.

Staff may indicate that the matter has been referred to the appropriate area of the department.

**Is it necessary to protect the identity of the correspondent?**

Staff should attempt to investigate the allegation without revealing the identity of the correspondent.

If this is not possible, it is best practice to explain what will happen with the correspondent’s information if the complaint proceeds.

In the instance of anti-social behaviour, staff must communicate to the correspondent that it may be necessary to release their name if the Department is to take legal action.

**For example, naming the complainant as a witness on a breach notice.**

Similarly, if the matter proceeds to VCAT, the correspondent may be subpoenaed to give evidence at the hearing.

**For further Privacy information:**

Refer to the ‘Release of Information’ chapter in the Business Practice Manual.

### Freedom of Information

**Are Departmental tenants and applicants able to access their files without applying to the FOI Unit?**

FOI legislation allows for staff to release non-sensitive information held by the department to clients under ‘Administrative Release’ guidelines.

**Examples of documents that may be released by staff include:**

* Documents provided to the department by the client (for example income or asset);
* Documents previously given to the client by the department (for example rental account statements, rebate letters);
* Documents which the client would be expected to have access to (for example application documentation)
* Any publicly available documents (for example policy and procedure manuals).

It is also recommended to allow clients access to Maintenance Charge Against the Tenant (MCAT) evidence, for example, photos, prior to a VCAT hearing.

To assist staff to verify identity, the client should complete a ‘client/tenant request for information form’.

**When should Departmental clients be directed to the FOI Unit?**

Any sensitive documents not intended for administrative release include:

* Documents that contain information personal to other clients or communicated in confidence;
* Documents that are internal to the Department (e.g. HiiP file notes, VCAT documents)

All requests for the above documents must be directed to the FOI Unit in the managing region:

| North and West MetroFreedom of InformationGPO Box 1332Collingwood Vic 3066Ph: (03) 9412 5333 | Barwon South WestFreedom of InformationGPO Box 760Geelong Vic 3220Ph: (03)5226 4540 | HumeFreedom of Information43-47 Rowan StBallarat Vic 3550Ph: (03) 5333 6088 |
| --- | --- | --- |
| Southern MetroFreedom of Information122 Thomas StDandenong Vic 3175Ph: (03) 9213 2111 | GippslandFreedom of Information PO Box 1661Traralgon Vic 3844Ph: (03) 5177 2500 | Loddon MalleeFreedom of Information GPO Box 513Bendigo Vic 3552Ph: (03) 5434 5555 |
| Eastern MetroFreedom of InformationLocked Bag 2015Box Hill Vic 3128Ph: (03) 9843 6000 | GrampiansFreedom of Information35 Armstrong St SouthBallarat Vic 3550Ph: (03) 5333 6088 |  |

**Do clients have to pay a fee to make an FOI request?**

Yes. The fee is $25.10 (as at 1 July 2012). If the client wishes to request that the fee be waived due to financial hardship, proof of concession status such as a copy of a health care card must be attached to the application.

All FOI requests must be in writing. Application forms are available from the regional FOI co-ordinator or downloaded from the internet.

**How long does it take to process an FOI application?**

The FOI act stipulates that applicants must receive a response from the department no later than 45 days from the date the application was received (45 consecutive days, not business days).

**For further FOI information:**

Staff: Contact your regional FOI Team.

Clients: Contact the FOI Team on **9096 8449** or **1300 650 172** or the [DHHS website](https://intranet.dhhs.vic.gov.au/freedom-information#foi-unit) <https://intranet.dhhs.vic.gov.au/freedom-information#foi-unit>