



## INFORMATION & PRIVACY POLICY

Latest DET Updates: 03/09/2019 & 01/11/2019

First Developed in This Format: 2014

Updated: August 2017; August 2018 and January, September & November 2019

### Rationale

- Good privacy practices help schools to build trust with parents and students and meet legal obligations to protect individuals' personal and health information. All school staff share the responsibility and obligations of protecting privacy.
- This policy is intended for School Leadership, all other staff and parents/carers.

### Purpose

- To ensure Pender's Grove Primary School maintains privacy of information.
- To ensure the school is aware of the legislative requirements of the *Privacy & Data Protection Act 2014* and the *Health Records Act 2001* and DET policy and guidelines.
- The objectives of privacy laws are to:
  - balance the public interest in the free flow of information while protecting personal and health information
  - empower individuals to manage, as far as practicable, how personal and health information is used and disclosed
  - promote responsible, open and accountable information handling practices
  - regulate personal information handling by applying a set of information privacy principles.
  - Information privacy principles create rights and obligations about personal and health information; however these only apply when they do not contravene any other Act of Parliament. In most cases there will be no contradiction as the relevant action falls within one of the exceptions within the information privacy principles.

### Implementation

- Our school will use the mandatory privacy policy formulated by DET.
- The school will:
  - adopt the Department's [Schools' Privacy Policy](#) (this can be achieved by creating a link to the policy on the school's website) or as follows
  - abide by legislative privacy requirements in relation to how personal and health information is collected, used, disclosed and stored
  - be reasonable and fair in how this information is treated, not only for the benefit of staff and students, but also to protect the school's reputation
  - abide by freedom of information requirements - for details, see: [Freedom of Information](#)
  - share the [School Privacy Policy FAQs](#) with staff to help them understand when they can share 'need to know' information
  - share the Information for [Parents – Schools' Privacy policy](#) with the school community to help them understand how the school handles their information including translations (available from this site) if applicable

- use these standard statements for new enrolments at the school:
  - [Collection Statement - enrolments, privacy information for parents, guardians and carers](#)
  - [Collection Statement - primary school, privacy information for parents, guardians and carers](#)
  - [Collection Statement - secondary school, privacy information for parents, guardians and carers](#)

#### School Compliance Strategies

Some strategies school can implement to ensure compliance with the privacy legislation include:

- nominating a person to manage and review the school's privacy practices
- conducting a privacy audit to determine what information the school collects, how information is used and with whom information is shared
- examining data security arrangements
- ensuring all staff, including volunteers, are aware and compliant with the Schools' Privacy Policy and supporting documents
- treating all privacy complaints in the strictest confidence and seeking advice from the Privacy team as needed, on (03) 8688 7967 or [privacy@edumail.vic.gov.au](mailto:privacy@edumail.vic.gov.au)

#### Privacy Exemptions

Personal and health information can be disclosed for a purpose other than for which it was collected and without the person's consent when the disclosure is:

- necessary to lessen or prevent a threat to life, health or safety
- required, authorised or permitted by law or for law enforcement purposes
- used for research or compilation of statistics in the public interest, in certain limited circumstances. Any research in schools must be first approved by the Office for Policy, Research and Innovation.

See: [Conducting Research](#)

#### Privacy and Duty of Care

Privacy laws recognise and permit schools collecting, using and disclosing information so that they can comply with their duty of care to students. A key element of duty of care is that the processes and procedures used are documented and records kept.

See: [Duty of Care](#)

#### Privacy and Parents/Carers

To assist decision making about a student's needs, the school informs parents/carers of the student's academic progress, behaviour, educational options or special educational requirements.

Privacy laws do not restrict this use of the information, as this is the purpose for which it is collected.

#### Court Orders

Unless a court order is made under the Family Law Act, both parents of a student have the same rights to access information about the student. See: [Decision Making Responsibilities for Students](#)

### Enrolment Information

The school will:

- provide a privacy collection notice with the enrolment form explaining to the parents/carers and student why this information is being collected, what it is used for, where it might be disclosed and how they can access information held about them
- only use the information collected during enrolment for the purposes that it was collected for. Disclosure for an unrelated purpose requires parental consent or in the case of a secondary student the content of the parent and student, unless the circumstances fall within one of the above privacy exemptions.

See: [Admission](#)

### Health Information

Health related information can be kept confidential by the Principal, or shared with: selected staff to the extent they need to know to care for the student, or all staff when they need to know in case of emergencies.

See: [Privacy on a page for student health and wellbeing staff](#)

Note 1: Counselling services are health services and records are confidential health records. Confidentiality of information disclosed during a counselling session must be maintained unless the student provides consent or the situation falls into a privacy exemption category.

Note 2: Career counselling is not a health service.

See: [First Aid Needs](#)

All staff must take reasonable steps to ensure that personal and health information they create, handle or have responsibility for is kept secure and protected from misuse and loss, and from unauthorised access, modification, disclosure or destruction.

### Transfers

Transferring student information between Victorian government schools is allowed when:

- parents/carers are informed of the process
- schools meet the Department's standards in transferring files

### Access to Information

The privacy laws do not change the individual's right to access their information that is held by a government school. The individual's right to access remains via a request made under the Freedom of Information Act 1982.

Consistent with privacy legislation, the school will be open and transparent about what personal and health information is held about individuals. When it is appropriate the school may provide individuals with informal access to their own personal or health information. However, the person seeking access should make a request under the Freedom of Information Act 1982 if records hold information:

- provided by a third party
- that identifies a third party or
- that may cause harm to the individual or others.

See: [Freedom of Information](#)

### Complaints

If someone is concerned about the way their personal information, or personal information about their child, has been handled, they are able to make a privacy complaint. Privacy complaints should be directed to the Privacy team.

### Privacy Incident

If a staff member believes a privacy incident has occurred, she/he should advise the Principal immediately. If a privacy incident is believed to have occurred, or might occur, the Principal will contact the Privacy team by phoning 8688 7967 or emailing [privacy@edumail.vic.gov.au](mailto:privacy@edumail.vic.gov.au) (The Privacy Team will evaluate any incident or suspected incident systematically on a case-by-case basis using an established formula.)

NOTE: Where the Principal reasonably believes that the privacy incident is insignificant, it is at her/his discretion as to whether or not to contact the Privacy team. An insignificant incident would include situations in which the personal information was not disclosed outside of the school or Department and did not include any sensitive or health information that would cause any harm or concern to a student or their family as a result of the mistaken disclosure.

A privacy notice will be provided to all families on enrolment. For a sample notice, please refer to Appendix A.

### Training & Support

For an introduction to privacy in schools, staff can complete the [Privacy for Schools](#) eLearning module which can be found in LearnED in eduPay.

For privacy advice or face-to-face training at the school, relevant staff will contact the Privacy team on [privacy@edumail.vic.gov.au](mailto:privacy@edumail.vic.gov.au) or 8688 7967.

### More information

For useful documents and websites, see:

[Privacy on a page for principals](#)

[Privacy on a page for teachers](#)

[Privacy on a page for student health and wellbeing staff](#)

[Schools' Privacy Policy: frequently asked questions for staff](#)

[Schools' Privacy Policy: information for parents](#)

[Office of the Victorian Information Commissioner \(OVIC\)](#)

[Health Complaints Commissioner](#)

For further information on privacy issues such as Consent, Privacy Incidents, Privacy Impact Assessment (PIA), the 'Need to Know' Framework, Online services and application, ICT, the DET InfoSafe Program, collecting Health Care Information, the Privacy Matrix.

- Please refer also to the school's *Freedom of Information Policy, Admission Policy, Archives & Records Management Policy, Duty of Care Policy, Parental Responsibilities (Decisions about Children) Policy, Photographing, Filming & Recording Students, Conducting Research Policy* and the *Student Transfers Policy*.

### Evaluation

- This policy will be reviewed as part of the school's three-year review cycle or if guidelines change (latest DET updates early September and early November 2019).

References:

[www.education.vic.gov.au/school/principals/spag/governance/Pages/privacy.aspx](http://www.education.vic.gov.au/school/principals/spag/governance/Pages/privacy.aspx)

## **Appendix A**

The policy applies to all school staff including Principals, teachers, visiting teachers, social workers, wellbeing staff, youth workers, nurses, ESS staff and all other allied health practitioners. This means the 'need to know' framework below also applies to all school staff, whether employees, service providers (contractors) and agents (whether paid or unpaid) of the Department.

### **Need to know**

All school staff can, and must, share information about a student with other staff who 'need to know' that information to enable the school to:

- **educate** the student (including to plan for individual needs or address barriers to learning)
- **support** the student's social and emotional wellbeing and health
- fulfil **legal** obligations, including to:
  - take reasonable steps to reduce the risk of reasonably foreseeable harm to the student, other students, staff or visitors (duty of care)
  - make reasonable adjustments for a student's disability (anti-discrimination law)
  - provide a safe and secure workplace (occupational health and safety law).

### **Deciding who 'needs to know'**

Subject to the Principal's direction, each staff member decides who needs to know specific, relevant information about a student, based on the 'need to know' framework.

Sharing relevant information with other staff who 'need to know' is very different from idle conversation or gossip.

School staff are entrusted with a large amount of important information about students. Staff must treat all such personal and health information sensitively and respectfully, and not share it other than on this 'need to know' basis.

### **What information and records can be transferred to a student's next Victorian government school?**

When a student has been accepted at another Victorian government school, the current school can provide personal and health information about the student to that next school. This can occur in any, and all, of the following ways:

- verbally: principal to principal (or authorised representatives)
- on paper: by providing copies of the student's records (including any health reports) to that next school
- electronically: including through the CASES21 transfer function; the Student Online Case System (SOCS) and/or via email.

Principals (or authorised representatives) determine what information to provide to that next Victorian government school based on the 'need to know' framework:

What information does the next school 'need to know' to properly educate or support the student, and fulfil the school's legal obligations?

### **'NEED TO KNOW' framework**

#### **Duty of Care**

A school's duty of care to students means that the Principal or other member of the Leadership Team needs to know about any **reasonably foreseeable risk of harm to anyone** because of the student's behaviour, disability, family circumstances or any other relevant circumstances related to the student.

So, for example, if there is a reasonably foreseeable risk to anyone because the student:

- displays violent behaviours
- is a victim or perpetrator of bullying, assault or age-inappropriate sexualised behaviours
- has emotional, wellbeing or self-harm issues

then staff must inform the Principal (or other member of the School Leadership Team).

The Principal will then share relevant information with any other staff member who needs to know because they work with, or supervise, the student. Staff must provide the Principal with enough relevant information required to adequately fulfil their own duty of care – so that the Principal can fulfil her/his duty of care too.

Importantly, when there is a reasonably foreseeable risk of harm, staff should act on that information and share the information with other staff who 'need to know', even if the student or parent/carer asks that information not be shared.

#### Anti-discrimination law

A school's obligation to provide **reasonable adjustments** for students with disabilities (regardless of whether they are eligible under the Program for Students with Disabilities) means that relevant information about a student's disability and their needs must be shared with all staff who work with or supervise that student.

This is required to enable the school to make properly informed decisions about what adjustments are reasonable, and then to implement those adjustments.

This may also be required to meet the duty of care to that student (for example, a student with a medical condition who may require treatment).

This means that relevant information must be shared with staff who work with or supervise that student, to enable them to:

- understand the student's disability and how it affects their learning and social or emotional wellbeing
- implement reasonable adjustments at school, including understanding all recommendations made by the student's treating practitioners.

The relevant school policies are followed by school staff when engaging with parents/carers, such as wellbeing and behavior policies. Go to the school's website for relevant policies.

The Principal and Assistant Principal are available to provide further information about school policies and handling of personal information or contact the DET Privacy Officer at [privacy@edumail.vic.gov.au](mailto:privacy@edumail.vic.gov.au)