

## VICTORIAN INSTITUTE OF FORENSIC MEDICINE (VIFM) INFORMATION PRIVACY STATEMENT

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### Information Context

The Victorian Institute of Forensic Medicine (VIFM) is an independent statutory body, whose aims are to provide independent, quality forensic medical and scientific services to support families, the community and the justice system, and to undertake research and teaching to expand and share its expert knowledge.

The VIFM deals with personal and health information of individuals in accordance with requirements under multiple pieces of legislation, including the *Victorian Institute of Forensic Medicine Act 1985* (VIFM Act), the *Human Tissue Act 1982*, the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*. The VIFM is also subject to information management requirements under the Coroners Court Rules, which are made under the *Coroners Act 2008*.

Adhering to these legislative requirements ensures that the VIFM respects the privacy of individuals whose personal and health information we handle while performing our statutory functions and objects.

### Legislative Framework

#### *Victorian Institute of Forensic Medicine Act 1985*

The VIFM is established under the VIFM Act. The VIFM's principal statutory functions are to:

- receive reports of reportable deaths, such as unexpected or unnatural deaths, and receive and disclose information to support a coroner's investigation of those deaths, including for the purposes of identifying the senior next of kin of a deceased person
- provide forensic pathology and related scientific services in relation to a death being investigated by a coroner
- ensure the provision of clinical forensic medical services to Victoria Police and government bodies
- investigate and instigate appropriate responses to support the health and safety of living siblings and parents where multiple children have died in one family (reviewable deaths)
- undertake tissue banking activities, which is done through the Donor Tissue Bank of Victoria (DTBV).

The VIFM also has statutory objects in relation to research and education in forensic medicine and science and related areas, which it achieves through its dual existence as the Department of Forensic Medicine of Monash University.

The VIFM Act empowers the VIFM to collect and disclose personal and health information for the purposes of its functions in relation to deaths reported to the coroner and reviewable deaths. The VIFM Act also authorises individuals and agencies from whom the VIFM requests personal and health information in relation to deaths reported to the coroner and reviewable deaths to provide the information, despite any other Act or law. 'Personal information' and 'health information' are defined to have the same meanings as in the Privacy and Data Protection Act and the Health Records Act.

## ***Human Tissue Act 1982***

The Human Tissue Act specifically empowers the VIFM to collect, use and disclose personal and health information for the purposes of locating the senior next of kin of deceased people who may be tissue donors and for assessing the suitability of donors and tissue for donation. The Act also authorises individuals and agencies from whom the VIFM requests personal and health information in relation to its tissue banking activities to provide the information, despite any other Act or law.

## ***Privacy and Data Protection Act 2014 and Health Records Act 2001***

In addition to the functions and powers in the VIFM Act and the Human Tissue Act, the VIFM must comply with the Privacy and Data Protection Act and the Health Records Act as they apply to the personal and health information handled by the VIFM.

Personal information means information or an opinion, whether true or not, about a readily identifiable individual.

Health information includes:

- information or an opinion about an identifiable individual's physical, mental or psychological health
- information about an identifiable individual collected in connection with the individual's tissue donation or intended tissue donation
- genetic information which is predictive of the health of an identifiable individual or any descendants.

Health information includes information collected or produced by the VIFM about most deaths reported to the coroner, as the Health Records Act applies in relation to living and deceased individuals who have been dead for 30 years or less.

The Privacy and Data Protection Act requires the VIFM to comply with the Victorian Protective Data Security Standards and to develop a protective data security plan that addresses the Standards.

## ***Coroners Act 2008 and Coroners Court Rules 2019***

The Coroners Court Rules 2019 are made under the Coroners Act. The Rules provide that where the VIFM undertakes a preliminary examination, an identification procedure or an autopsy in relation to a death being investigated by the coroner, the medical report produced by the VIFM is confidential and must only be provided to the Coroners Court, unless a coroner orders otherwise. The VIFM refers requests for these reports to the Coroners Court.

## Information the VIFM collects and produces and why it collects and produces it

The following areas of the VIFM collect and produce personal and health information:

- Coronial Admissions and Enquiries Office (CA&E)
- Forensic Pathology and related scientific services
- Clinical Forensic Medicine services (CFM)
- DNA testing services
- the Department of Forensic Medicine, Monash University (DFM)
- Donor Tissue Bank of Victoria (DTBV).

### Coronial Admissions and Enquiries

The nurses and administrative officers who work in the CA&E assist the coroner by receiving reports of deaths and fires, and requesting and receiving information about those deaths and fires. The staff in the CA&E also provide assistance and guidance about whether a death is reportable, gather information to assist the coroner with identifying the deceased and help family members with information about the coronial process.

The CA&E staff collect the deceased's medical records and may speak with the deceased's treating doctors to inform the medical investigation of the death. Copies may be taken of parts of the record that are then retained as part of the VIFM case file. The VIFM returns medical records to the deceased's medical practitioner or hospital.

CA&E staff collect the details of the deceased's next-of-kin for the purpose of contacting them to gather relevant information about the deceased person, to assist in the coroner's investigation and to support the family with information about the coronial process.

Personal information about the deceased's next-of-kin may also be collected if it is relevant to the medical investigation of the death. In some cases, a bodily sample may be collected from a member of the deceased's family and DNA testing may be performed to assist in identifying the deceased.

### Forensic Pathology and related scientific services

The VIFM's forensic pathologists and scientists assist the coroner by investigating the medical aspects of reported deaths. Their reports may have a bearing on findings related to:

- the cause of death
- factors that may have contributed to the death
- circumstances of the death
- the identity of the deceased person.

The VIFM's pathologists may also consult with other medical or scientific specialists for the purpose of the medical investigation of a death. Notes or reports may be produced from these consultations. Autopsies performed by forensic pathologists will reveal information about the deceased's health during life and may also reveal health information of relevance to family members, for example, the detection of a heritable disease.

## Clinical Forensic Medicine services

The forensic practitioners (physicians and nurses) in CFM provide a range of clinical forensic medical services to Victoria Police and other government bodies. The services include:

- forensic medical examinations of adult victims of physical and sexual assault and of children who are alleged offenders
- the assessment of suspected offenders for their fitness for interview by police
- the assessment of drivers for their fitness to drive
- the provision of medico-legal expert opinions on matters including injury interpretation and the possible effects of medical conditions, alcohol and other drugs on driving and other behaviour
- the provision of evidence in court.

The VIFM collects personal and health information in the provision of these services.

## DNA Testing Services

The Molecular Biology Laboratory at the VIFM undertakes a range of DNA testing for forensic purposes to assist coronial investigations and at the request of government and law enforcement agencies, and medical and legal representatives. This includes testing for the following purposes:

- the identification of human remains
- missing persons investigations
- other matters that require DNA analysis.

Personal and health information may be collected in the provision of this testing.

## Department of Forensic Medicine

The DFM is housed at the VIFM within the VIFM Academic Programs Division and also operates under the governance of the Monash University Faculty of Medicine, Nursing and Health Sciences.

The DFM collects personal information about students to enable courses to be administered and teaching materials to be disseminated.

## Donor Tissue Bank of Victoria

The DTBV collects personal and health information when assessing the suitability of donors and tissue for donation. The information is collected from the CA&E, Victoria Police, living donors, deceased donors' next of kin, medical records and, where relevant, from an autopsy. The DTBV undertakes testing that may produce further health information about a donor.

Personal details of family members of deceased donors are collected to compile a mailing list for follow up contact and to enable a newsletter to be circulated if families wish. Families may choose not to be contacted further by the DTBV.

## What the VIFM does with personal and health information it collects and produces

### Coronial Admissions and Enquiries

As described above, the CA&E collects personal and health information about deceased persons and their family members for the purposes of assisting the coroner to investigate the cause and circumstances of reported deaths, including confirming the identity of the deceased. The CA&E enter information into the VIFM's electronic case management system for use by the medical and scientific practitioners at the VIFM who are involved in the medical examinations as part of the investigation. The information is also passed to the Coroners Court of Victoria. Where required for criminal investigations, information may be passed to Victoria Police. Information required for funeral purposes is passed on to funeral directors as authorised by the deceased's senior next of kin.

### Forensic Pathology and related scientific services

The VIFM's forensic pathologists provide the coroner with a report detailing medical causes of deaths and the findings and results of medical investigations and examinations. In accordance with the Coroners Court Rules, these reports are provided only to the coroner unless the coroner makes an order otherwise. This generally means that third parties need to apply to the Coroners Court to obtain a copy of a report from the VIFM that has been provided to the coroner.

The VIFM keeps records of all forensic pathology and related services.

Information about the deceased is disclosed to the deceased's next of kin for the purposes of the VIFM's statutory functions and having regard to the need to keep family members informed of the particulars and progress of coronial investigations, as required by the Coroners Act.

Personal and health information may be disclosed to police and lawyers for the purposes of investigating and prosecuting or defending a case.

Personal and health information may be disclosed to the DTBV as part of the VIFM's tissue banking activities.

Health information about the deceased may come to light during a medical investigation, such as the identification of a disease with genetic components, which may have health implications for family members. In such circumstances, VIFM staff make contact with family members to ask whether they wish to learn of this information and whether they wish to be referred to the relevant specialist health and support services.

In accordance with regulation 94 of the Public Health and Wellbeing Regulations 2019, personal and health information may be disclosed to the Secretary of Department of Health, as notification of a communicable disease identified during the medical investigation is required.

### Clinical Forensic Medicine services

CFM practitioners make notes and compile written reports and expert medical opinions based on personal and health information collected about the people they have examined. These notes and reports are provided to investigating officials and those in the justice system who are legally entitled to them (police, lawyers and the courts). CFM practitioners have a dual forensic and therapeutic role and take care to respect the medical confidentiality of their patients as far as possible in the context of their forensic role.

## DNA testing services

Results of DNA testing performed by the VIFM Molecular Biology Laboratory are only issued to and discussed with:

- the coroner, when required for a coronial investigation, or the agency representatives who have commissioned the testing
- individuals who are the subjects of the DNA testing, and
- a third party only where authorised by the client(s).

## Department of Forensic Medicine

Personal information collected relating to students is used for administration and may be shared with Monash University administration where necessary.

## Donor Tissue Bank of Victoria

The DTBV uses and discloses personal and health information when organising the donation, storage and transplant of donated tissue.

Relevant health information about the donor is provided to surgeons performing the transplant procedure to ensure that risks to the recipient patient are minimised.

The DTBV stores personal information about the recipients of donated tissues, which is required for the purposes of traceability, particularly in the event of an adverse reaction to the tissue transplant. This information will be disclosed to relevant medical personnel involved in the recipient's transplant procedure, and where relevant, to third parties involved in providing the required transplant tissue to the surgeon on behalf of the DTBV.

If a recipient of donated tissues chooses to write to their donor's family, the DTBV stores a copy of the letter and other personal details supplied by the recipient. The donor family may choose not to receive the letter, in which case it is stored by the DTBV.

## Research activities

Researchers from within the VIFM or from external institutions may apply to have access to personal and health information held by the VIFM for the purposes of research projects. Access to information and use for research purposes is subject to review and approval by the VIFM Ethics Committee, which applies the guidelines set out in the National Health and Medical Research Council's *National Statement on Ethical Conduct Involving Humans*. Where relevant, the Ethics Committee also applies the Health Services Commissioner's Statutory Guidelines on Research, issued under the Health Records Act, which set out additional criteria to ensure that privacy issues are taken into account when considering research proposals.

Wherever possible, de-identified information is used by researchers. Where disclosure of identified information is essential to the research purpose, the Ethics Committee will consider if obtaining consent is practical and ethical. In all instances where identified information is provided to researchers, they must use the information for only approved research and must agree to strict security precautions to protect the information from unauthorised access or disclosure.

## How the VIFM ensures that health and personal information is accurate and up to date

The VIFM takes all reasonable steps to ensure that the personal and health information it handles is accurate at the time it is collected, complete, and relevant to its functions and activities. In some cases, the VIFM relies upon the relevant individuals to provide accurate and current information at first instance and to inform the VIFM when any changes to that information are necessary.

## How the VIFM protects, stores and destroys health and personal information

All of the VIFM's employees, contractors and visitors are required to sign a confidentiality undertaking that obliges them to exercise a high standard of confidentiality over information at the VIFM and to observe the VIFM's statutory obligations regarding privacy and data security.

The VIFM has developed policies and procedures to assist VIFM staff, contractors and visitors to meet privacy, confidentiality and data protection requirements.

Secure electronic and physical storage practices are in place to protect against the misuse, loss, unauthorised access or unauthorised disclosure of personal and health information.

The VIFM takes reasonable steps to destroy or permanently de-identify personal and health information that is no longer required to be stored, subject to obligations under the VIFM Act, relevant accreditation requirements and the *Public Records Act 1973*.

The VIFM uses a Continuous Improvement Request/Corrective Action (CIRCA) process to respond to complaints or incidents about privacy, confidentiality or data protection. The CIRCA process is commenced by the Quality and Improvement Team and investigates the cause of the complaint or incident and ensures appropriate corrective action is taken.

The VIFM has a Privacy Officer who is the first point of contact within the VIFM for all matters related to privacy and personal information. Other key roles at the VIFM include the Chief Information Officer, the Information Manager and the Cyber Security Analyst.

## How individuals can access health and personal information held by the VIFM

Individuals have the right to access personal and health information the VIFM holds in relation to them, and to seek correction of that information if required.

In relation to the health information of a deceased person who has died within the last 30 years, the deceased person's legal representative has the right to access and/or correct the information, subject to the requirements of the coroner.

In some cases, requests for access or correction will be handled in accordance with the *Freedom of Information Act 1982*.

To access, update or amend information held by the VIFM or to seek additional information about the VIFM's information management practices, the VIFM Privacy Officer can be contacted as follows.

**Privacy Officer**  
**Victorian Institute of Forensic Medicine**  
**65 Kavanagh Street**  
**Southbank VIC 3006**  
**Ph: 9684 4444**  
**Email: [privacy.officer@vifm.org](mailto:privacy.officer@vifm.org)**

## References

*Victorian Institute of Forensic Medicine Act 1985*

*Human Tissue Act 1982*

*Privacy and Data Protection Act 2014*

*Health Records Act 2001*

*Coroners Act 2008*

Coroners Court Rules 2019

Public Health and Wellbeing Regulations 2019

*Public Records Act 1973*

*Freedom of Information Act 1982.*

## Related documents

Document ID	Document Name
PP-07-PRIV	Privacy and Confidentiality Policy

## Changes since last revision

Section	Changes
General	General review and update for formatting, style and terminology use.
Legislative Framework - Coroners Act 2008 and Coroners Court Rules 2019	Reference to Coroners Court Rules 2009 updated to Coroners Court Rules 2019.
What the VIFM does with personal and health information it collects and produces – Forensic Pathology	Reference to regulation 72 of the Public Health and Wellbeing Regulations 2009 updated to regulation 94 of the Public Health and Wellbeing Regulations 2019.

### Victorian Institute of Forensic Medicine (VIFM) Information Privacy Statement

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Section	Changes
and related scientific services	
What the VIFM does with personal and health information it collects and produces – Donor Tissue Bank of Victoria	Updated to reflect changes to DTBV Tissue Recipient Privacy Statement.
How the VIFM protects, stores and destroys health and personal information	Inserted references to CIRCA process and to key information management roles at the VIFM.
How individuals can access health and personal information held by the VIFM	Inserted reference to <i>Freedom of Information Act 1982</i> .